United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, SECOND SESSION

Vol. 152 WASHINGTON, WEDNESDAY, MAY 17, 2006 No. 61

# Senate

The Senate met at 9:15 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, the giver of life, teach us how to become our best selves. Activate us with noble impulses that will produce helpful speech and faithful actions. Lead us ever on the side of the gracious and good as we strive to be instruments of Your peace.

Today, sustain our Senators through the challenges they face. Infuse them with the humility that will motivate them to serve. May their thoughts, words, and deeds be acceptable to You.

We pray in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. GREGG. Mr. President, this morning, on behalf of the leader, let me make a statement.

This morning we will immediately return to the consideration of the comprehensive immigration bill. Senators KYL and CORNYN have an amendment pending on which we hope to get a short time agreement. Senators have had overnight to review the language, and I expect us to lock in a time certain for a vote.

The chairman has been working on a lineup of amendments, and the leader encourages Senators to be ready with amendments when it is their time. We want to keep the bill moving, and the leader anticipates votes throughout the day.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

## CONGRESSIONAL OVERSIGHT OF THE NSA PROGRAM

Mr. REID. Mr. President, last week USA Today reported that the Bush administration may be collecting the phone records of millions of Americans. The administration's efforts to monitor activities of American citizens appeared to be far broader than President Bush had previously acknowledged.

Not surprisingly, Democratic and Republican Members of Congress have expressed concerns about this report and indicated they have sought more information about this program. Several Members made it clear that General Hayden would be required to answer questions about this program as part of his confirmation process.

Late yesterday, the Senate was informed that the administration agreed to brief all members of the Senate Intelligence Committee on the President's authorization of NSA warrantless surveillance programs, including clarifying whether the reports in USA Today are accurate. This new overture to the Senate on one aspect of the administration's overall efforts is a welcome development. I hope this action has more to do with a newfound interest to keep Congress fully informed than about its concerns regarding their nomination for CIA Director. I am surprised it has taken so long, and so much tugging and pulling, to get the administration to at least this point. It is, quite simply, required by law under the National Security Act of 1947 and by the Senate's own rules. So it really is about time.

Chairman ROBERTS approached me on the floor yesterday to tell me about these new developments. The Senator from Kansas and I have had our differences and will continue to have those differences over the conduct of the Intelligence Committee's investigation of the administration's misuse of intelligence on Iraq. Senator ROBERTS and I spent many good years together as the chairman and vice chairman, back and forth—whatever the leadership was in the Senate—on the Ethics Committee. We had a good relationship. That is going to override all the negativity we have had on this Intelligence Committee stonewalling we have had.

In the instance about this NSA wiretapping, I appreciate Chairman ROBERTS' acknowledgment that the Senate needs more information on these programs and the role the President has played in this. I appreciate very much the work by the Chairman and the hard work by Vice Chairman ROCKEFELLER to step forward to allow all members of the Intelligence Committee to know what is going on or attempt to get to know what is going on. It is important

for everyone in this Chamber and for the administration to recognize that this briefing on this single issue is very necessary but not sufficient for the American people to have confidence that their Government is not only protecting them from terrorists but also respecting their constitutional rights.

Clearly, Senators need to know a lot more about the domestic surveillance program, and I hope today's briefing accomplishes that objective. But just as clearly, Senators need to know a lot more about other important issues: misuse of intelligence, selective leaking, damage to the CIA.

I hope the administration's offer yesterday is the first of their efforts to inform Congress, not the last.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2611, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl amendment No. 4027, to make certain aliens ineligible for adjustment to lawful permanent resident status or Deferred Mandatory Departure status.

Mr. SPECTER. Mr. President, I think we made good progress yesterday. We just had a brief discussion in the well of the Senate. I believe we are prepared to proceed.

I ask unanimous consent that we next take up the Kyl-Cornyn amendment, with no second-degree amendments in order, with 30 minutes equally divided.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I further ask unanimous consent that the amendments beyond Kyl-Cornyn be as follows—Senator SESSIONS, Senator VITTER, Senator OBAMA, and Senator INHOFE. I ask unanimous consent that sequence be agreed to.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, will the manager yield for a question?

Mr. SPECTER. Yes.

Mr. MCCAIN. How soon does the manager anticipate voting on Kyl-Cornyn?

Mr. SPECTER. At 10:01.

Mr. MCCAIN. I thank the Senator.

Mr. SPECTER. Mr. President, may we proceed with the final argument on Kyl-Cornyn?

AMENDMENT NO. 4027

The PRESIDENT pro tempore. The amendment is pending. Who yields time?

The Senator from Texas has 15 minutes.

Mr. CORNYN. Mr. President, it looks like we are beginning to make some progress. About 4 weeks ago, this amendment was introduced in its original form, and unfortunately debate was derailed. We were unsuccessful in moving on for further amendments and debate. Fortunately, it looks as if things have gotten back on track. We are starting to see votes and debate on amendments. I don't necessarily like the way all of the votes are turning out, but this is the Senate and majority rules and I accept that.

All of us who are interested in comprehensive immigration reform want to see this bill continue to move, to have amendments laid down, debated, and have them voted on. I am very pleased that it appears that we are very close to having, if not unanimous agreement, at least majority support on a bipartisan basis for the amendment that Senator KYL and I laid down about a month ago and which has now been modified slightly to bring more people on board.

This amendment, quite simply, is designed to make sure that convicted felons and people who have committed at least three misdemeanors do not get the benefit of the legalization track contained in the underlying bill, whatever it may be. There will be other amendments later on that perhaps won't share the same sort of bipartisan and majority support. But this one at least seems to have gathered a solid group of Senators to support it.

In addition to convicted felons, those who have committed at least three misdemeanors would not be given the benefit of earned legalization under the bill. It would also exclude absconders. By that, I mean people who have actually had their day in court and have been ordered deported from the country but have simply gone underground, hunkered down in the hope they might be able to stay.

There have been some motions made regarding this amendment for waiver by the Secretary of the Department of Homeland Security for extraordinary circumstances. For example, if someone is able to establish that they didn't actually get notified, then as a matter of fundamental due process considerations they ought to be able to revisit that and to show that they did not get notice of the removal proceedings. We agreed that would be a fair basis to waive this provision.

Finally, it also appears that the other basis for waiver would be if the alien's failure to appear was due to exceptional circumstances beyond the control of the alien—a very narrow exception; and, finally, if the alien's departure from the United States would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully permitted to have permanent status.

We move it in the right direction. It is a fundamentally fair and commonsense amendment. I am pleased to support it and announce what appears to be a growing consensus that it should be accepted.

I reserve the remainder of our time.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Arizona may need.

The PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, for the benefit of my colleagues, I would like to point out that we spent the better part of yesterday negotiating with Senator KYL and Senator CORNYN, along with Senator KENNEDY and others, a group of us. We have been trying to modify the original Kyl-Cornyn amendment so that it would be broadly acceptable. I think we have succeeded, thanks to the goodwill of all parties concerned.

Fundamentally, the purpose, which we are all in agreement with, is we don't want people who are convicted felons or criminals guilty of crimes to be eligible for citizenship in this country. We have enough problems without opening up that avenue. Yet, at the same time, we didn't want to go too far to exclude people from eligibility for citizenship who, frankly, may have committed incidental crimes or the crime was associated with their attempt to enter this country.

For example, in order to obtain asylum, when people flee oppressive and repressive regimes in which their lives are at risk, and they had to use a bogus or counterfeit document in order to expedite their entrance into this country, of course, we don't think that should make them ineligible for citizenship or application for citizenship.

I think we have reached a careful balance. There are categories of people under conditions of extreme hardship or danger who are seeking asylum and would be exempted, but at the same time the thrust of the Kyl-Cornyn amendment, which is the prevention of people who have committed felonies and numbers of misdemeanors and other crimes would not be eligible for a path to citizenship as outlined in the legislation that would apply to the others who have not committed crimes.

I am aware there is some concern about this on both sides of this issue. I want to assure everyone that this is the product of a long, arduous series of negotiations and discussions among all involved in this issue.

I hope there is an understanding that we have come up with what most of us think is a reasonable compromise to address very legitimate concerns on both sides. People who are fleeing oppression may have used a bogus document, and on the other side of the coin, obviously, someone who has committed

serious crimes or a series of misdemeanors we would not want to have them eligible for citizenship.

I thank Senators KYL, CORNYN, KENNEDY, and others who have actively negotiated and come up with what we agree is a reasonable compromise.

By the way, that is the trademark of the progress of this legislation. That gives me optimism that we will be able to successfully conclude it in a reasonable period of time.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from South Carolina needs.

Mr. GRAHAM. Mr. President, I would like for a moment to showcase the staff of all Senators involved who have been working for hours to try to get this right. It is important to get this right. For me, this is sort of the model for where we go from here as a Nation and how we address immigration issues. Senator KENNEDY and his staff have been terrific.

The goal, as Senator MCCAIN said, was to make sure that our country is assimilating people who potentially add value to our country. If you are a thug, if you are a crook, if you are a murderer or a rapist or a bunco artist or a felon, you don't really add any value, and the only person you can blame is yourself. So I have no sympathy for your cause because your misconduct, your mean, hateful, cheating behavior has disqualified you—and too bad. You don't add value.

With three misdemeanors, as defined in the bill and as we have it under Kyl-Cornyn, you have had one chance, two chances, and the third time you are out. You have nobody to blame but yourself.

I think every Democrat and every Republican should come to grips with the idea that when we give people a second chance—whatever you want to call this process we are about to engage upon—there are certain people who do not get that second chance based upon what they did, either once or three times.

I think that is a good addition to this bill. It expands the base bill, and Kyl-Cornyn has done a good service to the body in that regard. But there is another side of this story. It is a group of people who haven't committed crimes other than violating immigration laws—nonviolent crimes or who, as Senator MCCAIN said, is one step ahead of a death squad in some bad part of the world and have come here to start a new life.

On the civil side, there is a group that split—the absconders. If you have been given an immigration deportation order and you just ignore it, then you are not subject to being eligible either because you have had your day in court. You lose and there is no use retrying your case.

However, if you fall into a category of people who had no knowledge or notice of the order for deportation, then it is not fair to hold you accountable to comply with something you didn't know about. So we are going to look at that case anew.

Within that population of people who have been issued deportation orders, some of the people we are talking about come to our country one step ahead of death squads or repressive governments. A humanitarian argument could be made in a few cases that we are going to listen to. For that small group of people, we will have a waiver requirement. We will waive the ineligibility if to deport you would reenforce a system that would have led to a tragedy.

If you had not gotten into the program using fraudulent documents—if I had to choose between my family's demise or forging a document to get away from a oppressive government, I would forge the document. I am willing to give those folks a chance to make the case that they add value.

On the humanitarian side, if you have a child or a member of a family who is an American citizen and you receive a deportation order, I am willing to allow a case to be made that it is not in the best interests of this country or justice to break up that family. There is a limited class of cases. That is just as important to me as dealing with the criminal because if you can't deal with hard cases that have some a sympathetic element, then you have hardened your heart as a body.

I don't mind telling a criminal: Too bad, you have nobody to blame but yourself. But I am proud of the body listening to people who deserve to be listened to and creating a waiver process that will bring about a just result and to allow people to add value to the country if they can prove they can.

Senator KYL and Senator CORNYN have been great to work with. I hope we get nearly 100 votes. I say to Senator KENNEDY's staff, it would not have been possible without you.

This body should be proud of this product because you break people into groups because of what they did in their individual circumstances. To me, that has been part of immigration reform. One size does not fit all.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank Senators KENNEDY, KYL, and CORNYN, as well as Senator MCCAIN and those who are responsible for putting this together.

This is a dramatic improvement over the original version of this amendment.

I associate myself with the remarks of the Senator from South Carolina. I think of these laws and amendments in human terms that we deal with every day in our Senate offices. Almost 80 percent of all of the case work requests for help that we receive in my offices in Illinois relate to immigration. Every day, we have new situations and new family challenges that we are forced to confront. Some of them are heartbreaking.

I think specifically of the Benitez family in Chicago. Mr. Benitez is an American citizen. He works hard. He has lived in this country for many years. He is a wonderful man. I see him in downtown Chicago regularly when I am going around. It is always good to see such a fine man who has worked so hard and who really believes in his family. His wife came to this country on a visa, overstayed the visa, married him, and continued to live in the United States undocumented. They have four children. Mr. Benitez and his four children are all American citizens.

The mother of his undocumented wife died in Mexico. She went back to Mexico to the funeral of her mother. When she came back into the country, she was stopped at the border. Because of that, she has had an outstanding order of deportation. She made it back to the United States in an undocumented status with an outstanding order for deportation.

Is it justice in this case that this woman would somehow be deported from the United States at this moment if her husband and four children, all American citizens, are living here? They are good people, working hard, paying their taxes, speaking English, doing everything we ask of them. That is not fair.

We have added in this amendment an opportunity for Mrs. Benitez to appeal for a humanitarian waiver for family circumstances. The language of this amendment bears repeating so the intent is clear. We give to those aliens who would be subject to deportation an opportunity to petition in cases of extreme hardship if the alien spouse, parent, or child is a citizen of the United States or an alien lawfully admitted for permanent residence.

We have created a family unification, humanitarian waiver, nonreviewable, but at least it gives Mrs. Benitez and people like her a chance to say: Let me keep my family together. Let me stay in the United States. Give me a chance to become legal.

That is sensible. That makes good sense. I am glad Senators CORNYN and KYL have agreed to this and we have come together. There are some people who will not be protected, those subject to orders of deportation who are currently single and do not have any relatives within the United States who would qualify under these provisions. This may not apply to them. But certainly for the family circumstance I just described, this humanitarian waiver is on all fours. This affects these families in a very positive way and gives them the chance they have been praying for for so long.

I commend Senator KENNEDY and all who brought this together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator will note that only 3 minutes remain. There was 15 minutes per side, and the time remaining is 3 minutes on the Democratic side.

Mr. KENNEDY. Mr. President, would the Senator from Texas yield me a couple of minutes on his time?

Mr. CORNYN. I would be happy to.

Mr. KENNEDY. I thank the Senator.

Mr. President, just so the membership has a good understanding of where we are, I will summarize this provision. I thank Senator CORNYN and Senator KYL for working with us, and Senator GRAHAM and Senator MCCAIN for their great help and assistance, and my wonderful assistant, Esther, for all of her good work. Senator DURBIN has illustrated the human terms which are involved in this issue as well.

Let me very quickly point out what the language provides. People should understand now what the sense of this whole proposal is about. We want to keep those who can harm us, the criminal element, out of the United States or for the consideration of being able to adjust status and be able to continue to work and live here. Those who can benefit the United States ought to be able to remain.

This is what we were attempting to do with this particular language. That is more complicated than it might seem.

Effectively, the Kyl-Cornyn amendment would make the various classes of aliens ineligible for the earned legalization program: Any person who is issued a removal order, failed to deport, or deported and subsequently returned; any person who was ordered to leave the country under the visa waiver program is subject to expedited removal; any person who fails to depart under a voluntary departure agreement; any person convicted of a serious crime inside or outside the United States; any person who has been convicted of a felony, or three misdemeanors.

That is the operative aspect of the amendment. The compromise reached yesterday strengthens the waiver so that aliens under the final orders of removal will still be eligible for earned legalization if they did not receive a notice of their immigration hearing, obviously, through no fault of their own—we know what the agency itself has missed, as the GAO report indicated—or it is established they failed to appear at their hearing because of exceptional circumstances, which are certainly understandable; or, three, that they can establish extreme hardship to their spouse or child or parent who was a U.S. citizen or a lawful permanent resident. Senator DURBIN gave the excellent examples of that provision. Those are the kinds of examples we are all familiar with in the Senate.

The waivers are available to immigrants who entered without inspection or those who fell out of status or who used false documents but not to criminal aliens or aggregated felons. We believe the waiver will cover many of the current undocumented who otherwise would be excluded under the original Kyl-Cornyn amendment.

We believe it is important progress. It is not the way, certainly, some Members would have drafted this proposal, but we understand the concerns that have been expressed by the proponents. We believe this is language which will for all intents and purposes treat individuals fairly, welcome those who should be welcome and exclude those who should be excluded.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. I ask unanimous consent Senator LANDRIEU be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I will take a moment, before we vote to again thank the folks I thanked last night: Senator KENNEDY; Senator MCCAIN; my colleague, Senator CORNYN, who worked on this amendment for a long time; and Senator LINDSEY GRAHAM, among others, for working together to arrive at a consensus on how this amendment should be drafted, to achieve the things the Senator from Massachusetts was just talking about.

We all agree on the significant benefits that can result from legislation of this kind, including, potentially, citizenship, for a lot of people. It should be limited to those who came here and otherwise worked honestly in this country, and it should never be available to those who have deliberately abused our laws, our process, or been convicted of serious crimes. As a result of this amendment, it will make certain that benefits of the legislation, however they are ultimately defined, are not available to that class of people we do not want to count as fellow citizens when this is all over with.

I hope my colleagues will join in voting yes on the amendment. I thank my colleagues.

Mr. LEAHY. Mr. President, Senator KYL opened debate on this amendment last night by noting that when an earlier version of this amendment was offered a few weeks ago to S. 2454, it was a ''somewhat different'' amendment. I understand and appreciate this understatement, but I also appreciate that Senator KYL and his lead cosponsor Senator, CORNYN, were willing to compromise and make improvements to their original text.

I wish to express my appreciation to the Democratic leader, Senator REID. He was right to insist that the original version of the Kyl-Cornyn amendment—a much broader version that some Senators wanted to adopt almost immediately when it was introduced a few weeks ago—deserved review and should not be rushed through the Senate to score political points. He was right, as the latest version of the amendment attests. In addition, in the immigration debate prior to the April recess, Senator DURBIN recognized and described several drafting flaws in the original amendment that would have swept in hundreds of thousands of immigrants, perhaps unintentionally. With a little time, and thanks to a lot of hard work, the amendment has been significantly changed, narrowed, and improved.

Among the modifications, the amendment now includes a waiver of its provisions. It allows the Secretary of Homeland Security to waive certain conditions of ineligibility to participate in the earned legalization program in title VI of the bill. A negative impact on family members, or humanitarian concerns such as harsh conditions in the immigrant's home country, should allow participation in the earned legalization program. An alien's failure to obey an order of deportation may be based upon the alien's trepidation over leaving behind his U.S. citizen children. An immigrant may have had to use false documents to gain entry into the U.S., such as the case of an asylum seeker who is fleeing persecution.

There is a humane way to treat otherwise law-abiding immigrants. This is consistent with American values. I wish that the Kyl-Cornyn amendment could be modified further so that its exclusions were more specifically focused on criminals. That is what we have done in our bill and in underlying law.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I ask unanimous consent Senator THUNE be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CORNYN. Mr. President, we yield back the time on both sides, if Senator KENNEDY is amenable.

Mr. KENNEDY. We yield back the balance.

The PRESIDING OFFICER. Is the Senator from Texas yielding back all time?

Mr. CORNYN. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—99

| | | |
|---|---|---|
| Akaka | Dole | Martinez |
| Alexander | Domenici | McCain |
| Allard | Dorgan | McConnell |
| Allen | Durbin | Menendez |
| Baucus | Ensign | Mikulski |
| Bayh | Enzi | Murkowski |
| Bennett | Feingold | Murray |
| Biden | Feinstein | Nelson (FL) |
| Bingaman | Frist | Nelson (NE) |
| Bond | Graham | Obama |
| Boxer | Grassley | Pryor |
| Brownback | Gregg | Reed |
| Bunning | Hagel | Reid |
| Burns | Harkin | Roberts |
| Burr | Hatch | Salazar |
| Byrd | Hutchison | Santorum |
| Cantwell | Inhofe | Sarbanes |
| Carper | Inouye | Schumer |
| Chafee | Isakson | Sessions |
| Chambliss | Jeffords | Shelby |
| Clinton | Johnson | Smith |
| Coburn | Kennedy | Snowe |
| Cochran | Kerry | Specter |
| Coleman | Kohl | Stabenow |
| Collins | Kyl | Stevens |
| Conrad | Landrieu | Sununu |
| Cornyn | Lautenberg | Talent |
| Craig | Leahy | Thomas |
| Crapo | Levin | Thune |
| Dayton | Lieberman | Vitter |
| DeMint | Lincoln | Voinovich |
| DeWine | Lott | Warner |
| Dodd | Lugar | Wyden |

NOT VOTING—1

Rockefeller

The amendment (No. 4027) was agreed to.

Mr. KENNEDY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, under our sequencing, we are about to go to the amendment of the distinguished Senator from Alabama, Mr. SESSIONS. We are trying to get time agreements. Senator SESSIONS believes this is a very complex and important matter, which I agree that it is, so I propound a unanimous consent request for 3 hours equally divided.

The PRESIDING OFFICER. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, could I, just for a moment, ask the leader to withhold the request and see if I can clear this with the leadership here? Could you withhold the request?

Mr. SPECTER. Mr. President, I do withhold the request. In the interim, while Senator KENNEDY is reviewing the matter, we can start the debate with Senator SESSIONS and look forward to counting the time, which we start now, on Senator SESSIONS' ultimate hour and a half, if we may.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, perhaps as we go forward, we can finish up in less time than that. Maybe our colleagues on the other side will yield back some time. I think this is an amendment that we need to talk about in some significant way. This amendment deals with barriers at the border. I think this is something for which there is a growing appreciation, and it is not in the bill today.

Before I go into that, let me say to my colleagues and those who may be listening that we need to spend yet more time with this legislation. It is a 614-page bill. Few of our Senators have had the opportunity to study it or to understand in any significant degree the breadth of it. There are things in it that absolutely do not represent good policy and need to be reconsidered. I hope our colleagues will do that.

The vote last night on the Bingaman amendment was a very important one. It took the maximum number of people who could enter our country under the so-called guest worker provisions from around 130 million over 20 years, at a maximum, down far below that to probably 9 million. That is in only one provision of the bill. However, I remind my colleagues that while that was one of the most egregious provisions in this entire legislation, this legislation still calls for massive increases of legal immigration into our country, even with that change we effected last night.

My staff worked hard on this, and I don't think anybody has even considered the numbers until the last week or the last few days. That analysis concludes that as the bill is now written——

Mr. SPECTER. Mr. President, if I may interrupt the Senator from Alabama to propound a unanimous consent request.

Mr. SESSIONS. I will yield if I can reclaim the floor.

Mr. SPECTER. Mr. President, I ask unanimous consent that we set a 3-hour time limit, with an hour and a half under the control of Senator SESSIONS, 45 minutes under the control of Senator KENNEDY, and 45 minutes under my control, with the time of the vote to be determined by the leaders. I do not anticipate a 1:30 vote, which would be inconvenient. We will respect Senator REID's position of taking the amendments one at a time and not setting them aside. But we can do that consistent with stacking the votes until later in the afternoon.

Starting this morning, it was hard to get all of the people in, and we started the vote a little earlier than anticipated. So we did not maintain our time structure on the first vote. But we are going to insist on observing the rule of 15 minutes and 5 minutes over, or if votes are stacked, 10 minutes and 5 minutes over, to see if we can move the bill along. So I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I add to that agreement no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3979

Mr. SESSIONS. Mr. President, I call up amendment No. 3979.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. SANTORUM, Mr. NELSON of Nebraska, Mr. VITTER, and Mr. BUNNING, proposes an amendment numbered 3979.

Mr. SESSIONS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amount of fencing and improve vehicle barriers installed along the southwest border of the United States)

Strike section 106, and insert the following:

**SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.**

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector; and

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER HIGH TRAFFICKED AREAS.—The Secretary shall construct not less than 370 miles of triple-layered fencing which may include portions already constructed in San Diego Tucson and Yuma sectors and 500 miles of vehicle barriers in other areas along the southwest border that the Secretary determines are areas that are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b), and (c) and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a), (b), and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as may be necessary to carry out this section.

Mr. SESSIONS. Mr. President, I ask unanimous consent that my colleagues, Senator SANTORUM, Senator BEN NELSON, Senator VITTER, and Senator BUNNING be made original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, my colleagues need to know that we still, after the positive step we took last night, are looking at increasing immigration into our country by a significant amount. Those totals will range, depending on how it plays out, from a minimum of 63 million to 93 million. That is 3 to 5 times the current number we now allow, and would expect to allow, over 20 years, which is 19 million people allowed to come into our country legally. This would raise that number to between 63 million and 93 million. It is better than where we were yesterday, but I still submit that it is a number that has not been carefully thought out. We have not analyzed how to do this with a number that is still too great, in my opinion.

We hear over and over that this is a guest worker proposal, it is a guest worker plan. There is nothing ''guest'' about it. Every person who comes in under this legislation, as it is now written, as it is now on the floor of the Senate, will be able to enter for a significant period of time. They will be able to apply for a green card shortly thereafter. That means you are a legal, permanent resident. After 5 years, you can apply for citizenship. So this is not temporary.

As President Bush mentioned yesterday several times—a temporary worker program—it is not temporary. It is a permanent move for people to enter our country to become citizens, and that is a matter far more significant than some have suggested to us. I think it is important for us to all know that. Please, we need to know that. Anybody who says ''temporary worker'' in discussions with the media or on the floor of the Senate ought to have their hand spanked a little bit.

Next, the legislation continues and accelerates an emphasis on low-skilled workers. All of the economists that we have heard testify in the Senate Judiciary Committee—and we have not had a lot—agreed that low-skilled workers tend to be a net drain on the economy and utilize more in Government benefits, welfare, and health care than high-skilled workers. Any program that we pass ought to emphasize high-skilled workers. This bill doesn't do that. This bill does nothing about the chain migration in which people who work their way to citizenship can bring in their parents, their brothers and sisters, adult children, regardless of the needs of the United States for workers, regardless of what skills they may have and whether we need them in the United States. Under this bill, citizenship is an automatic right. That ought to be confronted. The economists and public policy experts we have heard from raise that point and say other countries are not that way.

So this is the Senate. We are supposed to be the thoughtful branch. This is one of the most important issues this Senate has faced in decades. The people of the United States really care about this. They are concerned about it. They want us to do the right thing. That will include creating a legal system that is enforceable and will increase the number of legal immigrants into our country.

But how will we do it? Will we do it in a principled way that is helpful to our Nation's future or will we continue to willy-nilly provide, in effect, entitlements to people from all over the world to come here regardless of the needs of the United States?

Some say: We just need to pass something. Don't be nitpicky, SESSIONS, just pass something. We will get it to conference and somehow it will be fixed there.

I have my doubts about that, No. 1. No. 2, this is the Senate. We will be casting votes on this legislation, and we ought not vote for anything that we know is not good public policy.

A critical part of the immigration reform that we need to effect for our country is to make sure that our legal system, which is so utterly broken on this issue, is repaired. It needs to work. Can anyone dispute that? Today, we understand that 1 million people come into the country legally each year. The estimates are that 500,000 to 800,000 will be coming in illegally each year—almost as many legal immigrants.

I see Senator VITTER in the Chair, who is such a knowledgeable and articulate spokesman on this issue. I happened to see the mayor's debate in New Orleans last night, and Hard Ball asked them what about illegal immigrants? They had to have them to do the work in New Orleans. There was a discussion about it. What is the answer to that? Of course, you don't need illegal immigrants to do the work. Of course, if we craft a good immigration bill, when you have a crisis like Hurricane Katrina, we would be able to have temporary workers come in in whatever numbers are necessary to do that work. That is what a good bill would do.

That is a crisis that calls for an unusual amount of workers. Why don't we draft something that would actually work in that circumstance? Not anybody, no one, should come in and justify illegality. If the law is not adequate, let's fix it. The truth is, I think it is adequate today.

A critical part of moving us to an effective, enforceable, honorable, decent, legal immigration system is to send the message to the world that our border is not open, our border is closed. There are a number of ways to do that. I think that is important because we need to reach a tipping point where the people who want to come to our country know without doubt that coming here illegally is not going to be successful, and their best way to come here is to file the proper application and wait in line. Isn't that the right policy?

So how do we go from this lawless system, a system that makes a mockery of the laws of this great Nation, the United States of America, to a system that works? We send some signals and we do some things appropriately. President Bush did one of them the night before last when he said we were going to use the National Guard. That is a signal to the world that business as usual has ended, that we are going to create a legal system that works. We want him to follow through on that and with all of the other requirements that go with it. But it is a good step and a good signal, and it will help us improve that system.

Another way is to have more Border Patrol agents. We need that. We have authorized some more in this bill but not enough. It is a matter of critical importance, and we will need to fund that—the Senate and House—and not just to authorize it. Isn't that an essential part of it if we are going to change from a lawless system to a lawful system?

Another thing that we absolutely need, and every expert knows, is to increase the retention space. We have to end the catch and release. When you catch someone who comes into this country through Mexico or Canada from a country that is other than Mexico or Canada, where they are not contiguous to the United States, how do you get them home?

How do you return them? You have to put them on a boat or train or plane, and that is not always easy to do. So do you know what has been happening, friends and neighbors? They catch them around the border, and they are released on bail and asked to come back at a certain time so they can be taken out of the country. How many do you think show up to be deported? They violated the law to come here, so we release them on bail and ask them to show up so they can be deported. How laughable is that? One reporter did an analysis in one area of this system, and 95 percent did not show up. Surprise, surprise. Why do we release them? Why do we not hold them until they can be deported? Because we don't have sufficient bed space.

Part of reaching a tipping point in creating a legal system is to make sure we don't eviscerate the work of our law enforcement agents by having them turn loose the people they just went out in the desert to catch. How simple is that? But it is critical, and it is not there yet. So people who say they want a stronger border have to support, in my view, more detention spaces.

This amendment also deals with a critical component of creating a legal system that works, and that is fencing. It sends a signal that open border days are over, and it will greatly enhance

enforcement. It will pay for itself many times over the years. It is a reasonable proposal. It does not overreach. It builds on the provisions that are in the bill.

Senator KYL in committee had a number of provisions dealing with Arizona and fencing along that border. It builds on those provisions and keeps that language in the bill but provides and directs that we have 370 miles of fencing and 500 miles of barriers sufficient to keep vehicles from crossing the border. We are at a point where we need to take this step if we are serious.

The bill before us today, S. 2611, is the fundamental base bill from which we are working. Its language calls for repair and construction of additional fencing in very limited areas along the southern border, mostly in Arizona, as I just mentioned. But for the most part, this provision simply calls for the repair of fences that already exist in the Tucson and Yuma sections of Arizona.

Other than this limited amount of fencing, provisions contained in title I of this bill call only for the Secretary of the Department of Homeland Security to develop a comprehensive plan for the systematic surveillance of the border, and section 129 calls for only a study to assess the necessity, feasibility, and economic impact of constructing physical barriers along the border. Just a study.

This amendment attempts to go forward and create a real solution to the problem. It directs that the Secretary of Homeland Security construct at least 370 miles of triple-layered fencing, including the fencing already built in San Diego, and 500 miles of vehicle barriers at strategic locations along the southwest border.

These are not extreme numbers in any way. In fact, they are the numbers given to a number of Senators in a briefing a few weeks ago by Secretary Chertoff himself, President Bush's Secretary of Homeland Security. He said this is what he believes at this point in time he needs. It directs that this be done. It sends a signal to our appropriators that it should be funded, and it authorizes the President and the executive branch to go further than this and build such other fences as they may find appropriate.

We will have objections for reasons I am not sure why, but I suspect we will have objections. One of the points I have been making for some time when it comes to fixing our immigration system is that we have quite a number of Members of the House and Senate and members in the media who are all in favor of reforms and improvements as long as they don't really work. If it really makes a difference and will actually tilt the system from one that is illegal and will change the status quo and move us to a legal system, somehow, someway, there will be objections to it.

I submit that we are going to have objections to this modest proposal to build 370 miles of fencing and 500 miles of barriers according to the request of the Secretary of Homeland Security because it is going to work. That is why. We will have a lot of other reasons, such as it might send a bad signal. But good fences make good neighbors. Fences don't make bad neighbors. Go to the San Diego border and talk with the people. There was lawlessness, drug dealing, gangs, and economic depression on both sides of the border. When they built the fence and brought that border under control, the economy on both sides of the fence blossomed, crime has fallen, and it is an entirely different place and a much better place. That is just the way it is. We have to do this, and it is time to move forward.

A state-of-the-art border security system should be robust enough that it would not be easily compromised by cutting, climbing, tunneling, or ramming through with a vehicle, when combined with high-tech detection devices, motion sensors, body sensors, and seismic or subterranean sensors. A good barrier should make intrusion time consuming enough that a border unit could respond to the attempted intrusion before they are successful. That is what a fence does. To be worth our efforts, it does not need to be 100 percent impenetrable; it simply needs to improve significantly the status quo, and I am confident this amendment will do that.

Mr. President, it is great to see my colleague, Senator BEN NELSON, in the Chamber. He is dealing with a number of important issues today, but he has understood the importance of security at the border from the beginning. He has articulated clearly and effectively his vision for that and has recognized that unless we demonstrate to the world and to our own people that we have border security done first, then nothing else is going to be meaningful, and we will be right back where we were in the beginning.

I know Senator NELSON has to leave, and I am pleased to yield to him such time as we have remaining to speak on this amendment. I have been pleased to work with him on this issue.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague, the Senator from Alabama, for his incredible work on this border-security-first issue and his work on this particular amendment. It is a pleasure for me to join with him to support securing our borders.

Senator SESSIONS has made a very strong argument as to why we need to secure the border first to pursue this whole question of how do we deal with border security and with the immigration issues of those who are already here illegally.

The key is to prevent not only illegal pedestrian and vehicular traffic crossing the international border of the United States for people coming here to work, but it also includes a great concern, a growing concern about the number of people who are smuggling drugs into the United States, as well as those who are crossing the border for other illegal purposes, such as gang membership in communities across this country.

We have a multisituation with which we have to deal, but it is all handled in the same way in terms of securing the border first. Whether it is to prevent illegal people coming for purposes of work or whether it is for other purposes, most of which would be criminal in nature, we need to secure that border.

I never thought I would be proposing a security system that would include a border fence and a surveillance system that would protect our borders to the south or requiring a border study for the northern border as well. But I never expected that we would end up with the problem we have today.

If we go back to 1986 when the first amnesty bill was dealt with and President Reagan signed it and promised that the U.S. Government would continue to enforce border security, we had between 1 and 2 million people in the United States illegally. Of course, that was, by comparison to the 11 to 12 million today, a much smaller number, obviously, but a much smaller problem in terms of the numbers to deal with.

Today, the problem has continued to worsen, and as a result of the debate in the Senate and without action to secure the borders first from 3 weeks to 4 weeks ago, the number of border crossings is increasing percentagewise. The numbers continue to increase because there is an expectation that when they get here, somehow the U.S. Government, Congress, will find a way to bless it, find a way to excuse it, find a way to accept it, find a way to make it legal, and everything will be OK. That is because we haven't taken the opportunity to secure our borders first. Then, when we have those borders secured with this fence, with this barrier against pedestrian and vehicular traffic, we will be in a position to deal with the 11 to 12 million people in this country illegally and find solutions through a comprehensive approach.

My colleague has made it very clear and I believe it is very obvious that if we continue to pursue a multiapproach in the Senate, as opposed to border security, and try to solve all the problems with a do-everything bill, that if this bill then passes and goes to conference, it will be easier to square a circle than it will be to square the Senate bill with the House bill. I am not going to excuse the dealings we have with the people already here, but if we can't put the proper order in place, we are not going to be able to solve this problem. I believe that is a given.

When I first announced my border security bill last fall along with Senator SESSIONS and Senator COBURN, people across the country were talking about

securing our borders, but there wasn't any action. The truth is, that was last fall, and here we are in the spring, and there is still no action, people are still coming across the border in significant numbers. We must, in fact, focus on how to deal with this problem in a commonsense and effective way.

Sometimes it is great to talk about a comprehensive approach, and sometimes it makes a great deal of sense to talk about what might be involved in a comprehensive approach, but when we don't have a comprehensive approach on the House side—and we have to, through conference, be able to make the Senate bill work with the House version. We have to be practical and recognize that these are two, in many ways, diametrically opposed approaches and there is no real way to square them.

I believe we ought to take the approach that makes the most sense, and that is to pass a border-security-first bill, adopt this amendment, and continue to work toward securing the borders so that once we get that done, we can get a bill to the House, to conference, and we can get that accomplished, and then we can spend the time necessary to figure out how we square the problems in the United States today with people who are here illegally. Before we jump to conclusions that will enable others to come here legally or illegally, let us figure out what the needs of the United States might be for workers before we decide to allow people to come on their own initiative, whether they fit the needs that exist for workers in the United States at the present time or the future.

We don't have to be mean-spirited dealing with this issue. We don't have to be divisive among one another to solve this problem. What we have to do is apply some common sense as to what is going to work and how we can get that accomplished. If we do that, then we can sit down and work our way through the other problem we have of the President's points 1 and 2 in terms of border security. We can figure out a way, if we are going to close the back door to illegal immigration, to open the front door to legal immigration, whether it is through guest workers or emergency situations where we have emergency needs that would require workers to come in on a guest-worker basis. We can resolve those issues. We can resolve that. What we cannot do is we cannot resolve all of this at the same time in one package effectively and get anything done.

I am an optimist on most occasions, but I have to tell you that I am very concerned what will happen is that the Senate will pass this comprehensive, do-everything version of a bill, and then it will go to conference and nothing will happen. Actually, nothing will happen on the legislation because it won't be able to be squared with the House version.

But let me tell you what will happen. If we don't have that border secured sufficiently, there will be an influx of more illegal immigrants coming to get here while they can, while nothing occurs on the legislation. That is unacceptable to the American people. The American people want to secure the borders. They want to find a comprehensive solution. But they know it doesn't make any sense for the problem to get bigger in terms of the numbers while nothing happens on our legislation once it is passed by the Senate and goes to the conference committee.

I wish it were different. I wish I could say all we have to do is pass a good version in the Senate and send it over to the House and somehow the whole process will work and everybody will come together and we will have a bill and then it will all be taken care of and we can all say: Well, we have solved that problem. It just doesn't work that way here. We all know that.

Why don't we admit the practicality of where we are and resolve the border security first, and then we can begin the very laborious and the necessary task of working with the people who are here and do it in an appropriate fashion, rather than rushing our way through with one amendment after another amendment after another amendment, and see at the end of the day what we have? When you make a pie a slice at a time, it isn't necessarily a comprehensive approach.

I appreciate and I thank my good friend from Alabama for the opportunity to speak on this issue today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, the Senator from New Hampshire wanted to speak on a different subject, and I believe he has cleared that, and it would not count against the time on this amendment. I would be pleased, if there is no objection, to allow him to speak on that subject now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask unanimous consent that I be able to claim the floor afterward.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to speak for 20 minutes and the time not be charged to this amendment and that Senator SESSIONS be recognized upon completion of my statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GREGG. Mr. President, I wish to talk about border security. Obviously it is a topic of hot discussion here in the Chamber, and I just wanted to try to put in perspective what has actually happened and what may happen, especially in light of the President's presentation on Monday night.

I have the good fortune, I guess, to chair the appropriations subcommittee which has responsibility for border security. I took this over 2 years ago, a year and a half ago, I guess. When I took the committee over, it became immediately apparent to me that the priorities within the Department of Homeland Security were not necessarily focused on what I consider to be the primary threat. So we reoriented the funding within the Department to look at threat first, the highest level threat being, of course, a weapon of mass destruction which might be used against America. So we started to increase funding immediately in that account.

In my opinion, the second highest level of threat was the fact that our borders were simply not secure. They were porous. We didn't know who was coming in. We especially didn't know who was leaving. We knew that we weren't in control of the southern border relative to those folks coming in, and we knew that on the northern border, although we don't have the human-wave issue of illegal immigrants coming into the country, we do have a very serious issue of people who might come across the northern border represent clear and present threats to us, probably even more so than across the southern borders, in some cases. So we reoriented funding within the homeland security programs through the first bill that I was in charge of.

At that time, the administration sent up a proposal which essentially continued what I would call the benign neglect of the border security effort in our country. Their proposal in that budget was for 210 additional border agents and essentially no increase in technical capability or in the capacity of infrastructure or the capacity of ICE. There was a proposal in the Coast Guard area, but it was anemic. So we took that proposal which came from the administration and we reoriented that, too. We said: We are going to increase the number of border security agents on the border by 8,000. We are going to spend about 4 years to 5 years doing that. We had to begin slowly because the training facilities simply weren't there for this type of a huge increase in border security staff. So we began with a supplemental number of 500, and then we followed that up with 1,000 additional agents in the next regular bill that came through. So we added 1,500 new agents.

In addition, agents aren't the only issue. Boots on the ground is not the only issue. Technology is an issue, but probably even more important is the issue of what you do with an illegal immigrant who has come across our border once you capture that individual on our side of the border. Most of them are Mexican, on the southern border—about 85 percent—and they are immediately put on a bus and taken back across the border. In many instances, they just come back the next day or a week later. But a number of them are non-Mexicans, and those folks were given what was called a catch-and-release status, where you essentially

gave them an indictment which said they must return to be heard in a hearing 2 or 3 weeks later, maybe a month later, and then you released these individuals. Of course most of them never come back. Sixty-six percent never return to that hearing. That wasn't working, so we believed we should significantly increase the number of detention beds so we would have the capacity to actually hold people, especially non-Mexicans, who were coming across our border and whom we couldn't immediately return by bus to their country, as we could with the Mexicans. So we started to expand the number of beds, and we increased the number of beds by about I think 2,000 in that first budget cycle.

After having done that, it was ironic, and I guess appropriate, that the White House came forward and said: What a great idea. That is our idea. Let's take credit for this idea. So they held a press conference and said: What a wonderful idea you had to increase the number of border agents by 1,500 people and the number of beds by a couple thousand, and we would actually be taking the money and putting it toward border security. That was a year ago.

Now the new budget came up again, and this time the administration sent up a budget which was oriented toward border security in that they represented that they were going to increase the number of agents by another 1,500 and the number of beds by another 6,000, and they were going to begin to put more money into the Coast Guard initiative called deepwater. But it is not really deepwater; it would be better called protecting our coastline from threat. ''Deepwater'' makes people think it is somewhere out in the middle of the ocean. It may occur in the ocean, but actually this is threat protection along our coast.

So they made these commitments within the budget they sent up. What they failed to do, however, was fund those commitments because they sent up really a hollow budget in that they put in that budget a system for paying for these new Border Patrol agents and these new beds by increasing the fees on people who are traveling on airplanes by about $1.2 billion. Of course, that fee proposal had been rejected the year before. The Chairman of the committee that has jurisdiction over that proposal had rejected it out of hand this year when that budget was sent up, and everybody knows that it is not going anywhere, so it is what is called a plug. It happens around here. People send up a budget, and they will put a plug in it, which is basically a number they know they are never going to get, but they put it in to make the budget look correct. This was a plug. Clearly, airline fees, if they are going to be increased, that revenue should go toward airline traffic protection, which is basically TSA activity, maybe some visa activity, but it is not appropriate to put an increase on the airline passenger, on people using the airlines, and then take that revenue and put it on the border. If you want to use a fee on the border, put a fee on the border. Put a 50-cent charge as if you are going through a toll gate. If people want to come across the border, maybe it should cost people 75 cents.

But in any event, that wasn't proposed. What was proposed was to raise the airline fee, which everybody knew was not going to be done. It was a plug number. So even though they sent up a budget number to increase the Border Patrol agents by 1,500 and the beds by about 6,000, as a practical matter, it would be very hard for us to do that with the numbers they sent up to back up those commitments, but at least the commitment was there.

As the chairman of that appropriations subcommittee, it put me in a very difficult position because basically I have to go out and find that $1.2 billion to fill that hole, to get the additional funding to get those agents, which we wanted to do or had intended to do. That means I have to convince the Chairman of the committee, Senator COCHRAN, to take money from some other subcommittee in order to do that within the confines of the budget—obviously a challenge to Senator COCHRAN and clearly a position he shouldn't have been put in, but he has been, as have I.

Now, because of the fact that, as we looked hard at the border patrol issue and the securing of the border issue, it became very apparent that not only were boots on the ground an issue but actual physical capital assets were a huge issue—for example, the planes that are flown by the Customs Department, the Customs agents, are 30 to 40 years old and 20 years past their useful life. The helicopters being flown by the Border Patrol agents are 20 years past their useful life. The Coast Guard has a fleet which is very aged and which is not fast. They have one or two planes that are up to snuff, but most of their planes need to be refurbished. In addition, the unmanned technological activity along the border, specifically unmanned aerial vehicles—there was one, but regrettably it crashed 3 weeks ago. That has been discussed a lot on this floor. So there are actually none right now, and there won't be a new one until August. In fact, the surveillance fleet is so bad that about a month ago, the entire fleet was grounded, so we had no planes in the air.

Then you have the vehicle issue. These vehicles wear out very quickly because they are used very aggressively in very difficult terrain. Then you have the issue of just simply the training facilities because as you dramatically expand the number of people you are trying to put in the Border Patrol, you need training facilities to do that. Those training facilities are being upgraded and have been upgraded, but they need to be upgraded further to handle the even more people we are going to put in there.

So I suggested about a year and a half ago that we do a capital infusion into the border security effort which would essentially accelerate the Coast Guard refurbishment, taking it from completion in the year 2026, which I thought was a little long to wait for the Coast Guard to be refurbished, down to 2016. It would get the new planes for the Customs Agency; get new helicopters for the Border Patrol; and instead of having one Predator, which no longer exists, in the air on the border, have three or four Predators on the border. There are other technologies which are a lot cheaper, actually, than using that vehicle which probably should be pursued, and doing the technology along the border relative to land-to-land detection.

In addition, the capital infusion would give the Border Patrol the physical facilities so that when we get all of these Border Patrol agents together in their various facilities, they have a place to sit down, they also have desks at which to work, and they have vehicles that allow them to go out in the field and do their job.

To accomplish that kind of refurbishment was in, our estimation, about a $1.9 billion effort. So I initially put that forward in the Defense bill last year. It got knocked out. It went in on the Senate floor, went to conference, and it got knocked out. I then put it in the reconciliation bill, and it got knocked out. I then put it in, with the support of the Senate—the strong support of the Senate—actually Senator BYRD has been a pleasure to work with as the ranking member on this subcommittee. I then put it into the most recent supplemental that came across the floor, $1.9 billion for capital activity. Well, then we had a presentation by the President on Monday night which suggested we bring in the National Guard to basically, I guess, as I understand it, free up Border Patrol agents from desk jobs and get them out in the field—to simplify the statement of what they will be doing, although they will be doing more than that, I am sure—essentially is funded by taking the $1.9 billion and moving it from capital refurbishment over to operational exercises. That, in my opinion, is not necessarily—well, I will let people assess where that is.

In any event, it would mean the capital initiative would no longer exist and the dollars would go to pay for the National Guard and for other activities that are operational in nature, including adding an additional 1,000 Border Patrol agents on top of the 1,500, which we did plan to add this year. This would be good if we could actually accomplish that. However, there are technical restrictions on the ability to hire—it takes about 35,000 applications to get 1,000 agents—and the capacity to train is extremely limited. It is limited, not extremely limited—but it is limited so you probably can't do 2,500 agents in the timeframe this proposal has put forward. Maybe you can. I

doubt it. The track record of this department in this area is not stellar.

Essentially what is happening is that $1.9 billion which was supposed to go to capital improvements to get the planes, so they could fly the helicopters, fly the predators—so they could be up in the air, and the vehicle so they can drive around the border doesn't exist anymore. I was told by the Chairman of the conference yesterday: Good luck in getting this money. If you want to break the President's hard number of $94 billion and claim it as an emergency, you can get the money and get it that way.

Of course, as the Chairman of the Budget Committee, when I put this proposal forward I hadn't actually paid for it, and that was the key. I took it out of the across-the-board cut from defense. It was not my first choice on how to pay for it, but at the request of Senators STEVENS and WARNER, I did that. But, obviously, I am not going to put forward a proposal that exceeds the $94 billion and is unpaid for and there is no way to pay for it from the money paid to the Defense Department in this supplemental as an add-on to the initial $1.9 billion. We need, obviously, $3.8 billion at that point. So this capital improvement exercise is essentially dead as a result of the money being moved, migrated over to the operations side relative to the National Guard.

The practical effect of that also will be that the out-year pressure on the budget, on the appropriations account relative to this account, will be significantly higher because we will be putting in place a budget item essentially paying for the National Guard, or the people who replace the National Guard, which will be at least $1.9 billion in costs annually on top of the present appropriated plan. So to do it correctly we should not only use this $1.9 billion for this operational activity, but there should have been a supplemental request for the budget of the homeland security agency, the Department of Homeland Security, to reflect what you might call the expense that is going to be generated by the ongoing cost of putting this type of initiative in the field, if you are going to be sure that initiative will continue and will be robust.

I would be very much in support of that, obviously, because clearly that number is going to have to be paid for. As I mentioned earlier in this discussion, I already have a $1.2 billion hole in that budget which I have to pay for in order to get the full 1,500 complement in place of additional agents. Now I will have a $1.2 billion hole plus a $1.9 billion hole on the operational side. And in addition, of course, I will have a $1.9 billion hole on the capital expenditure side because we still have these airplanes that have to be replaced, helicopters that have to be replaced, unmanned vehicles that have to be put in the air, and a Coast Guard that really should not have to wait until 2026 to adequately defend our coastline.

I want to outline the specifics of where we are now on the dollars relative to border patrol and border security. When you get down to it, this is not a complex issue, securing our border. We all know that with 8,000 more agents, about 10,000 more detention beds, with decent technology on the border relative to unmanned vehicles and sensors, with a Coast Guard that is up to snuff, with airplanes that are up to snuff, we can essentially control the border to the extent you can control it without a guest worker program in place. A guest worker program still, in my opinion, is critical to any long-term resolution of this program because human nature says people are going to cross the border if they are getting paid $5 in Mexico and $50 in the United States for a day's labor and they have a family to support. So that is an element of it.

But the first element to which I think everybody has agreed is decent border security. Decent border security only requires resources. We have the capacity to do it; we have the technology to do it. It would be nice if the Defense Department would share a little more aggressively with Homeland Security, or Homeland Security would, on the other hand, go out more actively to try to get the Defense Department to share it, but we have all the parts sitting there in the box. What we have to do is pay the price of taking them out of the box and putting them in the places they should be.

I just wanted to outline where we stand relative to the issue of resources because I think there has been considerable confusion, especially in light of the speech by the President on Monday.

Mr. KENNEDY. Will the Senator be good enough to yield for a question?

Mr. GREGG. Of course, I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. We have before us now an amendment in terms of building some 350 miles of additional fence. It is going to be a triple fence. The best estimates—the Senate, I am sure, will hear from the Senator from Alabama—but the best estimates we have been able to see is approximately $4 billion.

I am just listening to the Senator talk about allocating resources to renew technology between border guards, between helicopters, unmanned aerial vehicles, other infrastructure improvements, and the pressure that we are under in terms of the appropriations. Having listened to the Senator from New Hampshire, and listened to how he had to allocate $1.9 billion, is he prepared to make any comment if we add another authorization for another $4 billion or $5 billion on fencing, where that money would be available?

Mr. GREGG. In response to the Senator from Massachusetts, neither he nor Senator SESSIONS is going to like my response. I come down on the middle on this one. We can have, in that capital allocation, money for a fence. I believe additional fencing is important, especially in the urban areas where the crossing points are basically stepping across a street corner, and you have to put up significant fencing to accomplish that. I honestly don't know the number of miles. But clearly there is going to be a significant cost. I am of the view that we ought to listen to the department as to what the number is relative to the miles of fence that is needed. I would very much oppose a fence that ran the whole length of the border. I think that would be a waste of money, it would be inappropriate, and it would be extremely inhospitable to Mexico.

But there are areas of the country that the only way you can do it is by fence. Certainly, the San Diego fence proved to us that fences do work in urban areas. What the distances should be and what the numbers should be, I don't know the answer to that question.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. If the Senator could yield for another question? Could the Senator have 3 more minutes to just yield for a question?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I must say I agree with the Senator—we will have a chance, when I have my own time, to talk about Secretary Chertoff—that there are appropriate areas. I agree with the Senator as well. But just extending a fence all along the border does not make sense. I think his response is certainly one with which I agree, and I thank him for his comments.

Mr. GREGG. I thank the Senator and yield the floor and appreciate the courtesy of the Senator from Alabama and the Senator from Massachusetts for allowing me to speak.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from New Hampshire because it is very important that we have, as the chairman of our Budget Committee, someone who can add and someone who has a memory. We forget how things happen around here, and Senator GREGG has a way of reminding us of how we get in these fixes. It is very valuable to us.

I would respond to my colleague from Massachusetts that $4 billion to $5 billion is an estimate for the fence across the entire 1,980 miles of border. This amendment calls for 370 miles, some of which has already been built. It is called for by the Secretary of Homeland Security. It does, indeed, focus mostly on urban areas, and it gives him great flexibility in deciding where to put it.

Does it cost some money? Yes. But I want to tell every Member of our Senate community that the American people expect this. If it takes a sequester

across the board and takes a half of 1 percent of every budget to get this thing done and fix immigration, that is what they want us to do.

I am delighted that Senator VITTER of Louisiana is here and also wants to speak on this issue. He is an original cosponsor.

I would also note, and add for the RECORD, that Senator GRAHAM, our Presiding Officer, and Senator INHOFE wish to be original cosponsors, as does Senator KYL from Arizona. I ask that be part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I yield such time as Senator VITTER uses.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise in strong support of this amendment. First, let me congratulate my colleague from Alabama for putting together this very essential amendment. I am proud to be an original cosponsor, and I want to strongly support it.

I also want to suggest that based on the discussion we just heard involving the chairman of the Budget Committee and the Senator from Massachusetts, everyone in this Chamber, based on their statements, should support this amendment. Based on what the Senator from Massachusetts just said, he should embrace this amendment because, if you look at the details of what this amendment does, it is perfectly consistent with those statements, and it is perfectly consistent with what the President said on Monday night. It is utterly consistent with what Secretary Chertoff says he wants and needs as a crucial element of border security. It is not the only element, not the only silver bullet, there is no magic wand, but it is a crucial element of border security.

Unfortunately, the underlying bill does not provide enough authorization and demand for fencing in this regard. The underlying bill, particularly section 106, only calls for a very limited and modest repair and construction of fencing along very limited parts of the southern border of Arizona. That is basically fencing that largely already exists in the Tucson and Yuma sections of Arizona.

What this amendment would do would be to expand that provision in a very reasonable and cost-effective way. What this amendment would say is that the Secretary of Homeland Security would construct at least 270 miles of triple-layered fence, including the miles of fence already built in San Diego, Tucson, and Yuma, and 500 miles of vehicle barriers at strategic locations.

Again, I underscore that this is not building a wall or a fence across the entire Mexican border. This is not the cost cited by the Senator from Massachusetts. This is something far more focused, that will be a great force multiplier as we put more agents at the border, and that is an absolutely critical part of truly defending the border.

As the chairman of the Budget Committee said, in highly urban areas there is simply no way around the need for a fence. To avoid a fence in highly populated areas would literally require a border agent every few feet to monitor the border because you are talking about a border running through the middle, essentially, of an urban neighborhood. That is an impossible enforcement situation without some sort of physical barrier. These 370 miles would go into those highly populated areas.

I underscore that this is exactly consistent with what virtually everybody has been talking about. Monday night the President talked about border security. He wasn't quite as strong on border security as I would have liked. He wasn't quite as focused on border security, first, before we move on to other elements of this bill, as I would have liked, but he explicitly mentioned the need for significant fencing for those highly populated areas. This amendment simply does that.

The President's own Secretary, Mike Chertoff, has met with Members of this body, and he specifically talked about exactly the same need and specifically talked about 370 miles. That is where this number in this amendment comes from. This number didn't come from out of the blue. It wasn't just a wild guess. It wasn't just a pretty number. It came from discussions with Secretary Chertoff.

The chairman of the Budget Committee, when asked by the Senator from Massachusetts would he support fencing, said we absolutely need it as a piece of our enforcement puzzle for highly populated areas—for urban neighborhoods.

That is exactly what this amendment addresses. Again, the 370 miles is exactly focused on that type of need—highly populated areas where to patrol the border without any physical structure would literally require a border agent every several feet, which is completely impractical and cost prohibitive.

I think this is an absolutely essential amendment to the bill. Really, this is the sort of amendment that will test how serious folks really are about enforcement.

This whole immigration debate is pretty interesting. We have wildly divergent views and strong passions on the issue from one end of the spectrum to the other. Yet if you listen to speakers on this floor, no one is in favor of amnesty and everyone is in favor of border security. Of course, it depends on how you define ''amnesty'' and how you define ''border security.''

In terms of border security, this amendment is a simple test on whether you are really serious in what you say. This is a gut check that the American people can understand very simply. If border security means anything, it surely means, among many other items, this 370-mile fence. If a Member of the Senate votes against this really quite narrowly tailored, limited in some ways, modest amendment, I think the American people will get it. They will surely know that Member isn't serious in any way about border security.

In closing, let me thank the Senator from Alabama again for this very necessary amendment. If border security is to mean anything, if it is to possibly work—and I have serious reservations about whether the plan in this underlying bill will be allowed to work, will be enforced, if the appropriations will happen to make it work, but if it is to have a chance to work, surely it has to include this modest 370-mile fence, the sort of fencing President Bush specifically talked about and the number of miles his Secretary of Homeland Security specifically mentioned in meetings with Members of this body.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 45 minutes.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Over the course of the discussion and debate on immigration reform, those of us who have been strong supporters of it have pointed out what the President of the United States pointed out; that is, this is about four major aspects of having this program work. They are all interrelated. That is what we call comprehensive. One of them is border security.

Those of us who support strong immigration reform strongly support border security. We voted for the enhancement and the increase in the supplemental.

We just listened to the Senator from New Hampshire who outlined how he allocated $1.9 billion. It is very interesting that we have some allocation for a San Diego fence in that, but he also talked about using new technology and using recent technological breakthroughs as being the most effective way to provide security at the border. He reiterated that today.

The chart behind me illustrates border enforcement which is in S. 2611 at the present time: 12,000 new border agents; high-technology, virtual fence which was favorably and positively commented on by the Senator from New Hampshire when he had responsibility to take the $1.9 billion and look at how he was going to allocate it over the period of time.

It talks about the new roads, vehicle barriers at the border, and about fencing in strategic locations.

Do you understand fencing in strategic locations? That is a part of S. 2611.

I was at the briefing with Mr. Chertoff. I understand he was talking about building a fence at strategic locations, but 400 miles of urban area is on the border.

Let us be serious—400 miles. That is almost a quarter of the southern border stretching from California to the Gulf of Mexico. And we are trying to

convince the Member from Massachusetts that is an urban area? Come on.

We recognize there are going to be certain strategic areas for fencing. That is in this bill.

Authorization for permanent highways in the legislation, and we are all familiar with that. Who can get that bumper sticker up the highest? Let us put up another 30,000 border guards. I dare you to vote against that and I will show that you are not interested in border security. Let us put another 1,800 miles of fence down there and triple wiring to show how tough we are on it.

Is that the challenge out here when we are trying to deal with a comprehensive program? I don't think so.

What we are trying to do is do what is necessary.

The Senator from New Hampshire talked about the limitations in recruitment. You have to get 40,000 in order to get 1,000 in terms that will be qualified for border security. He talks about the limitations in training programs. He talks about the technological kinds of limitations.

I thought he made a very responsible presentation.

If there were additional needs, we were prepared.

We have had the opportunity to work on this issue on border security. We have also recognized that part of border security is enforcement in terms of those who would be coming into the United States as guest workers to make sure we are not going to have exploitation. If they are not going to be able to get that job which they are able to get today, there will be less pressures on the border.

All of that is entirely relevant. If they have the ability to go back and forth, there will be less pressure on the border as well. These are all entirely relevant. That is the result of the extensive hearings we had. These are all the items which we have included.

I am for Secretary Chertoff working through those particular areas. With his charts and maps, he demonstrated areas where he thought it made some sense to put some fencing and other areas where he thought it was completely unnecessary. There is nothing in the current legislation. In fact, there is sufficient authorization. So if the Secretary wants to use resources that are allocated to him to meet the responsibility, he has the power today to do it. There is no suggestion that he does not have the power and does not have the flexibility in terms of the budget to be able to do that today in the selected areas.

But the idea to effectively fence a quarter of the border on the south, that is the downpayment for fencing the whole border.

There are Members of this body who believe that is the way to go. Let us put the fence all down there. Then we are going to have guards going all along that. We will back that up with the National Guard.

I don't know whether we have enough men and women in the National Guard or if we are going to have a sufficient number of men and women in the military to do that.

Then we are going to look at our northern border, as the Senator from New Hampshire pointed out and as we have heard in our committee. If you are looking at security issues, there is as much concern about the northern border as there is about the southern border—so 4,200 miles up there as well. It is unlimited. Let us get more border guards up there. Let us get 4,200 miles of fencing up there as well.

We should secure our borders. To do that, you need a multidimensional approach. You need effective enforcement. You need enforcement in terms of here at home for employers that are going to bring undocumented aliens to their companies and corporations. And you need a process which is going to be vigorous in enforcement. We provide that as well.

I wish to mention a couple of items in terms of the fencing we have seen that I think are also related. If we look at what has happened at the border crossings over the last several years, let us recognize that we are all committed to doing more on the border. But the idea that border security in and of itself with fencing or not is going to solve the problem just defies all recent history.

Forty-thousand came across the border 20 years ago, and 400,000 10 years ago. Mr. President, $20 billion—23 times the number of border agents we have put on in the last 10 years, and it is probably double that today. You just can't spend enough money on those. You can't get enough agents. You have to look beyond that. You have to look at what is happening here in U.S. in terms of employment and tough enforcement. That is what we are about in this legislation.

Let me point out what this chart says. These are deaths due to unauthorized border crossings. You go from 1996 with 315 to 1998 with 491. The list goes on, 391, 371, 412, 369, 443. These are the deaths primarily in the desert.

We can ask ourselves, Why do we have a significant increase in 1997 to 1998? Why did it go from 129 to 325?

Do you know what happened during that period of time? The fence went up in southern California. There is 67 miles of fencing at the present time.

In the legislation, there are key areas which have been identified as urban areas, and we also provide the resources for targeted areas in Arizona.

That is what has happened. During the building and construction of that fence, we were driving these individuals who wanted to come to the United States to take the jobs which employers offered to them—and they shouldn't have offered it if we had an effective system—they had to travel across the great desert, they had to travel across the mountains at dramatically higher risk in terms of their own safety and in terms of their own security. The totality of the pressure for coming here was not reduced and the totality of the people who got in here was not reduced.

There was a dramatic increase in the cost of lives. That may mean something to some people and it may not mean much to others.

Again, as the Senator from New Hampshire pointed out, he talked about the new technology, and he talked about the unmanned aerial vehicles that we need to get and bring on board. He talked about new kinds of technology, which he pointed out, and which I believe, and as the testimony presents itself, is really effective in developing the virtual wall, the virtual wall of technology, the virtual wall that can provide the security which this Nation needs. I support that. I will support certainly the resources to be able to do it.

But this is a feel-good amendment. We need to do things which are serious and which are important in terms of the border. This doesn't happen to meet that particular requirement.

I hope the Senate will accept it. I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, the time is under the control of Senator SESSIONS, who asked I take the floor next.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KYL. Mr. President, let me first of all note that I very strongly support this amendment for one reason: It embodies the entirety of an amendment which I offered in the Senate Judiciary Committee which was agreed to. When the Senator from Massachusetts defends the underlying bill, he is defending that amendment.

That amendment provides for about half of what we are talking about. In fact, all of the language of that amendment is also included in the amendment of Senator SESSIONS. Why do I know about that? It was my amendment because it deals specifically with the State of Arizona. What did we do? We went to the Border Patrol and we said: You will have aircraft, sensors, cameras, border patrol, vehicles, fencing, all of those things working in combination to try to secure the border.

What do you need, specifically? What are you recommending for the fencing part of that? This is what they said: First of all, we need to tear down some of the existing fencing because it is not very effective. It is the old surplus landing mat. It is solid steel. It stood vertically. The National Guard built that fencing and that is what exists in the urban areas.

I wish my colleague from Massachusetts could visit the border in Arizona and see how that solid-steel fencing has divided communities. It is an ugly eyesore. It is an ineffective way to prevent people from crossing, right in the middle of Nagales, AZ. On the other side from Naco-Sonora, separated by this fence, we have a huge 30-foot-high or

20-foot-high barrier of solid steel. It is ugly. It is ineffective. People can climb up the other side, and our Border Patrol cannot see them because it is solid steel.

What the Border Patrol would like is a double fencing that you can see through so they can see who is on the other side and what they are about to do. Moreover, the biggest part of violence now is the rock throwing that occurs. They cannot see what is on the other side of this steel barrier.

The first point is they want to replace this landing mat fencing with modern, up-to-date fencing that is probably double. That is to say, there are two fences involved, as there are in California. That has been extraordinarily effective to keep people out because you have a patrolling in the middle. People may get over one fence, but by the time they get over that fence the cameras spot them and are able to direct Border Patrol to the area. They are not able to get over the second fence so they cannot quickly melt into the rest of our society. That is why this double fencing actually works.

In the area of San Diego, I am told that still no one has crossed over the double or triple fencing. No one. In that sector of the border, the apprehensions have gone down. This is good news because it means there are not people crossing—from some 600,000 now down to 100,000. And that is the entire sector of San Diego. In the specific area where there are 26 miles of fencing, no one gets across. That is what we are trying to achieve in the urban areas.

The Senator from Massachusetts said all that has done is to drive them out into the desert, where it is more dangerous and deaths have increased. What is the point of that argument? Is the point that we should simply provide an invitation for those who would like to cross our border illegally, to do it in the same way as the urban area?

What the Border Patrol says works is a combination of things. Fencing in the urban area, where large numbers of people congregate at one time. We have seen the pictures of them rushing the border through the San Diego port of entry, where 200 or 300 people at a time congregate, rush the border, rush through, intermingle with the cars waiting to get through. It is impossible to apprehend more than a handful of them. That is one of the techniques.

We have to try to stop that. One way we do that in the urban area is to have this fencing. Frankly, if I can get my colleagues from New England or other States to come down, Members would agree it is not very sightly. From an environmental standpoint, it is not good. And from a good neighbor standpoint, it is not good to have this ugly fencing. We would like something that looks good and does the job.

What the amendment in the underlying bill does, and it is the same thing in Senator SESSION's amendment, it says we are going to replace that landing mat fencing with the kind of fencing the Border Patrol believes would be more effective. That is part of the reason for the 370 miles of fencing.

The Senator from Massachusetts derided the amendment as suggesting that it was not just for the urban areas because, after all, 370 miles of fencing is a lot of fencing. That is a big piece of the whole border. Now, let's calm down and do the math. There are several hundred towns along the border. As one should not argue against oneself when one supports the underlying bill, here is what one is supporting. What you are supporting is fencing in the urban areas, approximately 10 miles extended in either direction. The urban areas are maybe 5 or 6 miles and 2 or 3 miles beyond that. That is what the underlying bill provides.

I will read briefly from parts of the underlying amendment:

> (1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located approximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international boundary . . .

To extend it for a distance of not less than 2 miles beyond urban areas except it shall extend west of Naco for a distance of 10 miles. Then we talk about the Yuma Sector of Yuma, Somerton, and San Luis, so there are 15 communities in the State of Arizona.

If you proximate 10 miles on either side of the midpoint of the community, that comes out to 140 miles of fencing. If you add to that, there is at least 26 miles in the San Diego area. I don't know how much beyond that. If you add the 26 miles, that is 176 miles. There are many other communities in California, but let's say there are four or five. That gets you half of the 370 miles, and you have not even talked about the longest part of the border in New Mexico and Texas.

My point is, if all you do is extend, to a modest degree, for more than 10 miles on either side of the communities that are on the border, you are easily up to 326 miles of fencing.

Why did the Border Patrol say it needed 326 miles of fencing? Because they did the math. They counted up all of the communities and figured how much fencing they needed in each of these urban areas and that is what they asked for. This amendment simply takes the underlying bill, which my colleague from Massachusetts is supporting, and adds essentially the fencing for Texas, New Mexico, and California to that, and the sum total we get is about 370 miles to replace existing fencing and add fencing strictly in the urban areas, which will be effective as the fencing in San Diego has been.

The Senator from Massachusetts says we need to secure the border, but we should do it in a serious way. I submit that a virtual fence is not a fence. A serious way means building some miles of actual fence. That is what keeps the illegal immigrants from crossing illegally into the United States. In combination with UAVs, helicopter, fixed-wing surveillance—there is surveillance actually in other ways, as well, which we do not need to get into—there are sensors, there are cameras, there are people on patrol on horseback, on three-wheeled vehicles, on four-wheeled vehicles, and you put all of those things together, and we can build a combination of actual and virtual fencing that creates the ability to control the border. This is what you do if you are serious about controlling the border.

Finally, in the Judiciary Committee, we held hearings about what was necessary to secure the border. We heard from the head of the Border Patrol, David Aguilar. We heard from the former head of the Border Patrol, we heard from the U.S. attorney from Arizona, we heard from a couple of sheriffs on the border in Texas and Arizona. And we asked them what was going on at the border and what they need to control the border. Here are a couple of examples. David Aguilar said that over 10 percent of the people now apprehended coming into the country illegally had criminal records. They were serious criminal records. We are not talking about defacing public property. We are talking about murder, rape, kidnaping, violent smuggling, drug crimes, and the like. More than 10 percent. These people are deterred by fencing, and they need to be stopped. So we are not talking about people trying to come into the country to work.

The U.S. attorney for Arizona testified that crime, in the last year, in terms of assaults in the border areas, has increased by 108 percent. The reason is because the Border Patrol is finally getting to be a sufficient number, and the fencing is doing a good enough job that we are contesting the territory of the drug cartels, the smugglers, the coyotes, and the criminals are fighting back to try to regain the territory with weapons. Do not think rocks are not a lethal weapon. As a result, we are seeing that there is some progress being made, but it has increased the violence. The Border Patrol desperately needs more fencing in order to protect their agents from these criminals on the other side of the border.

It is beyond me why someone would deride a recommendation of the Border Patrol for a little bit of fencing in the urban areas to protect our officers who are out there trying to do their job, among other things, to prevent violent criminals from entering the United States, to prevent contraband drugs from entering the United States.

This is why we are adding a little bit of fencing. The border is 2,000 miles, roughly, and we are talking 370 miles, representing essentially the area of urban communities on the border. Bear in mind, these are communities that straddle the border. In Douglas, until a few years ago, there was a corral in the middle of town, and the border ran

through the middle of the corral. There was nothing but a corral. In places right outside of town, there is a barbed-wire fence that is old and rusty and now does not even have three strands. That is the border.

These are communities in which people work and live on both sides, they cross frequently, and they are now subjected to a huge amount of crime because of the elements that have moved into those communities to transport drugs, to make a lot of money transporting illegal immigrants, and to come across the border from countries other than Mexico because they are criminals, and they figured out this is a good way to get into the United States to do their crime. Who knows what terrorists might be thinking.

The point of this amendment is to add, simply, a little bit more fencing to what is already in the underlying bill in the urban areas of the country to effectively secure the border which, after all, is what we ought to be about here, to protect the people who live in the vicinity of the fencing and to protect the officers we have put into harm's way to do the job we want them to do.

I will conclude with this point. It has become very fashionable now for everyone to say: We must secure the border. What this amendment says is, if you are serious, if you really mean that, here is a very modest little thing you can do, what the Border Patrol has recommended it needs, to have a modest amount of real fencing which they say protects themselves and protects American citizens.

I don't have the statistics on the top of my head, and maybe Senator CORNYN does, but at the hearing we held in our subcommittee, the testimony was that crime in the San Diego area where this fencing had gone up had gone way down, but that San Diego and the Mexican citizens on the other side of the border, likewise, have been subjected to a huge increase in crime until that fence was built. Once the coyotes and the cartels knew they could not come across in that area, they left. And so did the crime.

This is a great amendment. It should be supported by all Members. Crime in San Diego dropped by 56.3 percent between 1989 and 2000. If you can cut the crime in half in a community by building this double fence, and they did, and I don't hear anyone objecting to the double fence in the area of San Diego, why shouldn't the other communities? If anyone would like to come to the Senate and say that it was a mistake to build that double fence in the area of San Diego, I would like to ask them to please do it. I would love to hear the reason why that is not a good idea.

All we are asking is that in the other urban areas along the border, the same kind of fencing be built to protect our law enforcement officials and the citizens of those areas and to help prevent this kind of smuggling across our border—nothing more, nothing less. This is a modest amendment, and it should be unanimously agreed to by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. I thank the Senator from Arizona. There is no more harder working, no more knowledgeable Senator in this Senate on the issues involving the border than he. I thank him for his eloquent remarks.

I am pleased to yield such time as he may consume to Senator CORNYN of Texas who, like myself, is one of the most knowledgeable people in this Senate who has been engaged in this debate from the beginning and whose advice and recommendations I have valued throughout. So I will yield to Senator CORNYN for such time as he may choose to use.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, may I inquire how much time remains on our side?

The PRESIDING OFFICER. Thirty-eight minutes.

Mr. CORNYN. Mr. President, I assure my colleagues, I will not use but a fraction of that time.

I think one of the things that makes this issue of fences and walls along the border so controversial is because walls and fences are powerful symbols. Indeed, I know, in talking to some of our friends on the other side of the border, they worry what the message is America would send if we were to build, let's say hypothetically, a 2,000-mile wall between America and Mexico.

Well, suffice it to say that I think, as we have had this debate both in the Judiciary Committee and now here on the floor of the Senate—and as a lot of us have been working to try to better understand what is actually needed by the Border Patrol to secure our borders—our thinking has evolved.

Indeed, I was one of those who initially was somewhat skeptical of the idea of a wall or a fence. But now I find myself supporting this amendment. I would like to explain just for a minute why.

We sometimes joke among ourselves that if, in fact, Congress was to authorize and the Department of Homeland Security was to build a 2,000-mile wall, 50-feet high, across the border, it would probably see a boom in the sale of 51-foot ladders or what we would see is a lot more of those tunnels like we have seen in the news recently in California and elsewhere, people going through a tunnel.

We all know, if you do not go over a wall or a fence, and you do not go under a fence, you might go around the sides of the fence. So I have wondered whether this is, in fact, the most effective way to deal with the problem.

As I have told my colleagues, coming from a State that has 1,600 miles of common border with the country of Mexico, I hope you will go look at it and see what we are talking about. I fear sometimes when people talk about the border they are relying more on their recollection, perhaps, of a movie they have seen or a novel they have read. It is a tough and difficult place to deal with, and you can appreciate, when you go to the border, the challenges the Border Patrol has and why it is so easy, relatively speaking, for people who want to come across that border into the United States, notwithstanding our efforts to try to secure it.

But I do not believe we ought to seal the border. I do not believe we ought to close the border. But I do believe we ought to secure the border. And I believe now that some strategic barriers—and, yes, even some fencing, such as Senator KYL and Senator SESSIONS have described—would be helpful.

Now, how did I arrive at that conclusion? Well, because we held a number of hearings. As chairman of the Immigration and Border Security and Citizenship Subcommittee of the Judiciary Committee, we have had a number of hearings, including the experts who have told us that, yes, it would be helpful in some areas along this 2,000-mile border to have some strategic barriers, some fences, some ways to funnel traffic so that the Border Patrol can have an easier job trying to actually detain people who come into the country illegally.

I would point out that under Senator SESSIONS' amendment, it would authorize the building of up to about 370 miles of fence. About 70 miles is already in place. So really we are talking about 15 percent of that 2,000-mile border which would be authorized to be built subject to the good judgment and discretion and professional decisions of the folks who are in charge. The Border Patrol, the Department of Homeland Security, they would be the ones deciding it because, frankly, I do not think we here in Washington are in any position to decide where it ought to go. We ought to leave it to the experts.

But the fact is, it is expensive. This leads me again to remind my colleagues that we can pass some pretty expansive legislation here, we can talk in grandiose terms about border security, worksite verification, and dealing with this great challenge that confronts us, but sooner or later we are going to have to pay for it. And the $1.9 billion the Senator from New Hampshire succeeded in getting appropriated in the supplemental appropriations bill is a mere downpayment on what it is going to cost. So I hope Senators who talk in very sincere terms, no doubt, about making sure this bill is enforceable will be just as emphatic when it comes to paying for these measures.

Let me say that we are not just talking about putting up some fencing in order to secure our borders. We are talking about doubling the number of Border Patrol agents. This is the primary law enforcement agency that is responsible for providing border security. The President announced on Monday night that he was going to authorize up to 6,000 National Guard troops to assist the Border Patrol on a stopgap

basis, not to perform law enforcement per se but to provide support to the Border Patrol while we recruit and train more Border Patrol agents.

Now, one thing I do not understand is why we are told that the Border Patrol can only train 1,500 Border Patrol agents a year. We need more, and we need them faster. In the last 3 years, the United States and the coalition partners have trained a quarter of a million Iraqi security officers and police and army. Why we can train, with the assistance of our coalition partners, 250,000 Iraqis but we can only train 1,500 Border Patrol agents a year is beyond me. We need to find out why that is and fix it.

But I sincerely believe what we need is a combination of more boots on the ground—we need human beings. We need to roughly double the number of Border Patrol agents to about 20,000. And just by way of a footnote, let me point out in New York City alone there are about 40,000 police officers. So we are talking about half the number of law enforcement agents along our 2,000-mile border than they have in New York City. But they need some help.

We need the force multiplier that comes with technology. I know others have talked about this, but a couple days ago I went out to Fort Belvoir, VA, out to the Army's night vision lab and their sensor lab where they actually develop this technology for use by our military in places such as Iraq and Afghanistan and elsewhere. What they demonstrated for me is some of the technology that is relatively inexpensive that is already being used by our military in places such as Afghanistan and Iraq that could be easily used by the Department of Homeland Security along the border. And this ranges from unmanned aerial vehicles that are airplanes, basically, with cameras on them that weigh about 10 pounds that can stay in the air for up to 4 hours at a time, which can also tie into ground sensors and cameras, thermal imagery, radar, and other things that could be used to be a force multiplier for our Border Patrol.

I think what we need is a combination of things to provide that security along the border. I do not favor a 2,000-mile wall, but I do not see what the objection is to using the necessary tools that are required in order to provide some chance of stopping the flow of humanity across our border.

Last year alone, 1.19 million people were detained coming across our southern border—1.1 million people. And people wonder why we have a problem? People wonder why we have a problem with controlling our borders when we do not have enough people, we do not have the technology, we do not have the strategic barriers there?

Well, part of the problem is we only have about 20,000 detention beds—20,000. That is the reason the Department of Homeland Security is engaged in this flawed idea of catch and release. In other words, you catch 1.1 million people, you send people back home more or less immediately who come from Mexico, a contiguous nation. But if they come from other countries, then we have to make arrangements to send folks back where they came from. That requires them to be detained somewhere for a while.

With only 20,000 detention beds, and 250,000, roughly, people coming from countries other than Mexico last year alone, you can see the problem. So people are released on their own recognizance and asked to come back for their deportation hearing 30 days hence. And guess what. Most of them do not show up. It makes you kind of wonder about the ones who do, knowing, as they must, that we do not have the people, the technology, and the infrastructure in place actually to enforce the law. Well, that is what we are trying to fix here.

So let me say, in conclusion, I think we have all evolved in our understanding of what it is going to take to solve this problem. I believe we have seen some good movement across the aisle on a bipartisan basis to try to come up with solutions. And I have been led to conclude—as a result of all the discussions and debates we have had, the hearings we have had in the Judiciary Committee, listening to the experts who are in a position to know—that this is what they need.

Secretary Chertoff of the Department of Homeland Security told a number of us this is what he needed in order to get the job done. I believe we have an obligation to give our law enforcement officials the tools they actually need to get it done, and to do otherwise would be some sort of cruel joke, to pretend we are actually serious about dealing with this problem but yet failing to provide those same officials the tools they need in order to get the job done.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Illinois.

Mr. DURBIN. Madam President, I am not opposed to fences and vehicle barriers. They are included in the bill. It is our understanding there are some places where fencing can be effective to stop illegal immigration into America. But what we have here has become a symbol for the rightwing in American politics: the symbol of a fence, a fence between America and Mexico.

If you have been a student of politics for a few minutes or a few days, you will know where this is going to end. This proposal by Senator SESSIONS would construct a fence of about 370 miles in length. The House Republicans want to build a fence that is 2,000 miles long. So what will likely happen, should this amendment pass the Senate and go to conference, is we will split the difference, and we will end up with a fence that is over 1,000 miles long on America's southern border. And perhaps, as Senator KENNEDY has suggested, it will be the downpayment for a fence that would stretch for 2,000 miles.

They have come down from their original request of a 700- or 800-mile fence. That was going to be the first thing asked for, when somebody suggested that would be a fence the distance of which could stretch from the Washington Monument to the Sears Tower in Chicago. That is the distance we are talking about—700 or 800 miles—but that could be the ultimate result here.

The obvious question we have to ask ourselves—I think two questions—No. 1, will it work? If you build a fence like this, will it work? Will it hold people back or will it become our ''Maginot Line''? The Maginot Line was the line of defense built by France after World War I to stop the Germans should they ever want to attack again. And the French invested a great sum of money and all of their national security in the idea they could build a line that the Germans could never cross. They waited, knowing they were secure, until World War II began and the German panzers just crushed the Maginot Line and came roaring over it, destroying all of their feelings that they were safe forever.

I feel the same way about this fence. What fence is it that we will build that cannot be tunneled under, that you cannot go over or around? Is this really going to be an effective deterrent?

What we have suggested in the bill, which is completely full of ideas on enforcement, is to use technology. It may not be this high fence they want to build is the best thing for us. The technology we have available might be much better. We can have a virtual fence which achieves much more than a fence, which would cost us millions of dollars and be easily overcome. So in the first instance, I am concerned where this will end, how long this fence will be, and whether, in the end, we will be safer in building it.

The second thing is the image it creates of a country, that our relationship with Mexico would come down to a barrier between our two countries. I believe we should have a more positive outlook toward where we are going to be. Working with the Mexican Government, working with them toward the goal of stopping illegal immigration, is far better than the confrontation of a fence or a wall. I think it could bring us to a day when we will have our borders under control, with all we invest in this bill, with what we do by way of enforcement at the border and in the workplace, and with what we do with those who are currently here in the United States. It is a coordinated and comprehensive approach. It isn't just a matter of building a fence. It isn't a matter of enforcement alone. It is enforcement as a starting point.

My concern about this fence, which is likely to end up being over 1,000 miles long, is that it will not protect America. It will not stop the illegal flow of immigration. It would create an image of America which I am not sure we would be proud of in years to come. I will oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I want to bring some relevant and important facts to the debate. As we have pointed out, we are for security of the border. We have outlined, in my earlier comments, the provisions in this legislation which would help to achieve that. I want to point out some of the history of the building of a fence and the cost of the building of a fence.

When the first fence was going to be built, Congressman HUNTER, the House's largest proponent of fencing, originally estimated the cost of completing the 14 miles of fencing in San Diego at $14 million, the same as the current estimate, I believe, of the Senator from Alabama. Fencing was completed over 11 miles, and the cost was more than 200 percent over budget, costing $42 million. The real cost of construction ended up being more than $3.8 million per mile. At that rate, a complete fence across the U.S.-Mexican border would cost $7.6 billion.

As was referenced, the House of Representatives position calls for a 700-mile fence. Congressman HUNTER boasts of securing an additional $35 million for the last 3 miles of fencing in San Diego, approximately $12 million per mile. These costs are significantly higher because of difficult terrain. Much of the U.S. border with Mexico crosses mountain terrain such as these 3 miles, potentially driving up the cost of borderwide security.

Let's look at what happened in terms of people. Currently, there are 70 miles of fencing along the U.S.- Mexican border, including 40 miles in California and 25 in Arizona. Partial fencing of the U.S.-Mexican border shifted migrant traffic from one area to the other. The apprehensions dropped in San Diego from a high of 450,000 in 1994, when fencing construction began, to a low of 136,000 in 2005, a reduction of 70 percent. Over the same period, the apprehensions in the Tucson sector, covering most of Arizona, rose from 137,000 in 1994 to 489,000, almost an exact shift in migrant traffic from San Diego to Arizona. So the number of apprehensions along the U.S. border from 1994 to 2005 has barely fluctuated, ranging from 900,000 to well over a million per year.

What the facts show is that having large-scale fences has been grossly inadequate, if we are talking about security. We need to have real, effective security, as we discussed earlier, the virtual fence, using the latest in technology, and also enforcement of laws in the workplace which will discourage people from coming and which those who have studied this believe to be the most effective.

We are talking about a cost of billions of dollars for something that has not been shown to be effective in achieving an outcome. There are ways of securing the border, but this is not the way to do so, for the reasons I outlined earlier and the reasons I cited at this time. We have evaluations of fencing in our legislation. We ought to find out what is the most effective way, whether we use the virtual fence, the newer technologies, what is having the best and most positive result, and invest in that. That is what we ought to do.

What we are doing this afternoon is a good-feeling vote, in terms of trying to give some assurances to the American people, which history has shown is highly costly, and in terms of the amount of resources we are likely to expend has not been effective.

For the reason of raising the kinds of conflicts that we are going to have with our neighbors to the south rather than working with them effectively, there are better and more effective ways of securing the border.

I hope this amendment will be defeated.

As I understand it, there is a desire to vote at 2:30. I think I have used about all my time. I would be glad to yield back the time, maybe move on to another amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, we are talking about a possible 2:30 vote. The day is badly fragmented with a signing ceremony at the White House at 1:45, a briefing by Director Negroponte at 3, and a social at the White House at 5. It is pretty hard to see how we get any business done when we dodge in and out of the raindrops in a hurricane. But we are talking about a 2:30 vote. If we are to have it, I wanted to stack three votes at that time. We are going to respect what Senator REID wants to do, to take them up one at a time, but we are asking Senator VITTER to come over right now because we are about to wrap up. Senator SESSIONS wants 10 more minutes. I will speak briefly. Then we will yield back the remainder of the time. Then after Senator VITTER's amendment is heard—we have already argued Senator INHOFE's amendment—we may be in a position to stack three votes at 2:30 or very close to that time. That is what we are looking toward.

I yield to Senator SESSIONS for his final 10 minutes and yield back the remainder of the time to move on to Senator VITTER's amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, we are at a point where everybody in this body—and overwhelmingly, the American people—wants to see a lawful system of immigration in America. We can all disagree about what to do about the people who have come here illegally already. There are a lot of ideas about that. We can disagree about what our policy should be in the future, but we pretty well have been unified on that point. The 370 miles of fencing that we are talking about, plus barriers for vehicle traffic in a larger amount, has the support of Secretary of Homeland Security Chertoff and the administration. They believe it is a good expenditure, and they are prepared to help find the money to fund it because it will save money in the long run. It is a one-time expenditure and will be a multiplier of the effectiveness of every single Border Patrol agent.

As we have heard from Senators CORNYN and KYL, who have visited the border on a regular basis, we have borders that run right through the middle of towns and communities. How could we possibly put enough agents at every corner, every street to guard it? We need to do better and we can do better.

I am amused by my colleague from Illinois, Senator DURBIN, saying there is going to be 1,000 miles of fencing. I had originally offered in committee 700 miles. That is what the House passed. We have now come in and listened to the administration and proposed a modest figure of 370 total, counting portions of the fence already built in San Diego, and those being refurbished in Arizona. The House is at 700. So the argument that it is going to be a fence across the whole border or the argument that we are going to build 1,000 miles of fence is not very plausible. Frankly, if the Senate is at 370 and the House is at 700, we are not likely to come out with a compromise at 1,000. What kind of argument is that?

Then we heard the argument that it is going to bankrupt America. We spend over $800 billion a year. We can't find a billion dollars to fix this problem? We certainly can. They ask: Will it work? I say let them go to San Diego. Let them go there and talk to the people on both sides of the border where the whole county showed a 56-percent reduction in crime, and on both sides of that fence the economy is booming. It is safe and secure. The smugglers and dope dealers are gone, and things are much better off. It is a positive development. Why are we having opposition to it?

Senator KYL came close to the truth when he said: Whenever anything gets proposed—I am paraphrasing—that might actually work, we get an objection to it. What about a good identifier card? They say something like that makes sense, but every time we get close to having a good biometric identifier card that would actually work, we get all kinds of objections.

There is no doubt that some people believe in open borders. There are people who do not want to see this immigration system become a lawful system. I will repeat, we are a nation of immigrants. We are going to increase the number of immigrants. I will support increasing the number of lawful immigrants into our country by a reasonable amount, not three to five times the current level that is in this bill today, even after we reduced the numbers last night. Three to five times is way out of the range of what should be accepted. But we are going to increase immigration. We are not against immigration. I reject that. We want to travel across the border, particularly our

Mexican border. It is a very busy place. Senators KYL and CORNYN are familiar with that border, and they wouldn't support anything that would back that up.

I am confident we are on the right track. We have checked with a series of contractors and looked at the numbers. The best estimate we get is that the kind of premier fence we are talking about would be at most $3.2 million per mile, and that would, at 296 miles of new fencing cost approximately $940 million, not $14 billion. Where did that come from? That is not so. It will probably cost around a billion dollars.

Remember, as Senator CORNYN reminded us, 1.1 million people are being arrested each day at that border, 1.1 million. How much does it cost to detain and process those people and deport them and move them out of the country or release them or catch and release, in which they then abscond and don't show up to be deported? Is it not better to reduce the number of arrests by creating an effective system that prevents crossing the border rather than all the expense of detecting and apprehending and deporting?

We have had some good discussion. We have talked about these issues in a number of ways. With regard to the San Diego fence, according to the FBI crime index, crime in that county dropped 56.3 percent between 1989 and 2000, after the fence was erected. Vehicle drive-throughs in the region have fallen between 6 to 10 per day before the construction of the border infrastructure to only 4 drive-throughs in 2004 for the year. And those occurred only where the secondary fence is incomplete.

According to the numbers provided by the San Diego sector of the Border Patrol, in February of 2004, apprehensions decreased from 531,609. The American people need to hear this as well as Senators. In 2004, the apprehensions on the San Diego, CA, sector of the border only were 532,689 apprehensions. How expensive is that? Those figures were in 1993. And in 2003, after the fence was built, it dropped to 111,000 across that whole sector.

So the idea that the fence had no impact and everybody went around it is not true. It sent a message that we were serious about creating a border that works, and it reduced by four-fifths the numbers of arrests. How much money did that save? How much time did that save? And it left the Border Patrol officers available to do a lot of different things.

In 1993, authorities at the San Diego border apprehended over 58,000 pounds of marijuana coming across the border from Mexico. In 2003, after the fence, the tide of drugs was reduced and only 36,000 pounds of marijuana were apprehended, and cocaine smuggling decreased from 1,200 pounds to 150 pounds. That is some of the progress that was made.

This is a narrow amendment, concentrating on the most important 800, 500, or 350 miles of fencing, with 500 miles of barriers. It is focused and it is what the Department of Homeland Security says they need. It is reasonable in cost. It will save money considerably over the long run. It is a one-time expenditure, but it can save us from having thousands of permanent investigators, permanent prison bed spaces, and things of that nature. The key to it is to change the perception and the reality of how we are doing business.

Let me conclude with that thought. It is important for this country to make clear to our own citizens and to the world that a lawful system is going to be created, that this is no longer any open border. Once that happens, and once that is absolutely clear, we are going to have fewer people attempt to come in. It is that simple. How do you do it?

Well, the President's call out to the National Guard is one signal that things have changed. Business as usual is over. Utilizing fencing is important. Increasing bed spaces and increasing agents along the border are important. All those things can help us reach a tipping point, a magic point on the seesaw or the balance scale. When it tips, it is going to tip so that people will find out it makes more sense to apply to come here legally, according to our laws, rather than coming in illegally. It will add to the workplace enforcement on top of that, and you will become serious about immigration.

We can do this. It is not hopeless or impossible. For a reasonable cost, we can tip the scales from illegality to legality. That is what the American people are asking us to do. A vote for this amendment is a step in that direction.

I thank the Chair and yield the floor.

Mr. LEAHY. Madam President, when the Judiciary Committee met to consider a comprehensive immigration reform bill, we adopted an amendment by Senator KYL on limited fences and barriers along the border. I supported that amendment. It called for replacing and repairing barriers in certain border towns.

Now Senator SESSIONS is offering an amendment to correct what Senator KYL had included in the Judiciary Committee bill and that was incorporated in the underlying bill now before the Senate. I had thought that the Senator from Arizona had consulted with the administration and, in particular, with the Department of Homeland Security before offering his amendment and that the committee action would have been sufficient. Apparently Senator SESSIONS and his cosponsors, which include a number of Republican Senators on the Judiciary Committee, think that the Kyl amendment was inadequate. They say that their discussions with Secretary Chertoff, the Border Patrol, and Homeland Security lead them to seek a needed change and correction.

As Senator KENNEDY noted, the fact may well be that the Secretary and the administration have all the legal authority they need without this amendment to do what they think needs to be done. That they have not done more before now was not for the lack of authority as far as I know. Nor has Congress refused to provide such authority as may have been necessary or that has been requested by the administration.

On this point, I quote a column from today's Roll Call authored by Norman Ornstein. He concludes:

> For nearly five years, we drastically have underfunded our first responders while failing to coordinate plans across state and regional lines. We still do not have interoperable communications among first responders. We have underfunded border security despite warnings that immigration issues were intertwined with basic security issues. No wonder this issue has exploded on the national scene, and no wonder we are seeing this belated move to ''solve'' the problem with a National Guard presence.
>
> Where has Congress been in all of this? For nearly five years, absent without leave. It's been AWOL on oversight, AWOL on serious legislation to deal with either the lapses in the department or the broader problem of border security, AWOL on serious deliberations about broader immigration issues, AWOL on seeking bipartisan solutions for difficult problems that need some consensus in the middle. And it's been worse than AWOL in making sure that we have institutions of governance after the next massive attack. Congress' approval rating is 22 percent? That seems too high.

Sadly, there is much truth in what Mr. Ornstein writes. During Republican congressional control they have slavishly taken their cues from the Republican administration and defended its every misstep.

With respect to the Sessions amendment I have questions, questions about its value and whether it is meant to signal some kind of ''fortress America'' approach to real world problems. I also have questions about its cost and how the Senator from Alabama intends to pay for its additional costs. He said during the course of the debate that he estimated that it would cost an additional billion dollars. On the day that the President is signing into law billions of dollars of additional tax breaks for the wealthiest Americans, I wonder whether we might not have been wiser to set aside a billion dollars from those tax breaks being provided millionaires to help fund enforcement measures for America's border security.

The Congressional Budget Office says that this bill will require more than $54 billion in expenditures. The Sessions amendment will add additional costs. Is it several hundred million dollars, a billion dollars, as the Senator from Alabama has estimated, or more? The Senator from Texas has said that this bill is merely a downpayment on what it will cost to secure our borders. I wonder what the Senator from Texas believes this will eventually cost. I wonder how he intends to pay for these measures. Under Republican leadership we are already running the largest annual deficits in history and have turned a $5 trillion surplus into a projected debt of somewhere between $8 trillion to $10 trillion.

Earlier today the Republican chairman of the Homeland Security Appropriations Subcommittee came to the Senate to make an extraordinary statement. I am sorry he spoke to an almost empty floor. I urge all Senators to consider his remarks. The Senator from New Hampshire is someone I have worked with to provide interoperable communications to law enforcement along the shared border of our States. He is one of the most straight-talking Members of the Senate and he demonstrated that again today. He said today that the $1.9 billion capital account he had sought to establish for border security improvements is gone, that it has been transferred to operational needs. In addition, he expressed regret for having had to structure his amendment to the emergency supplemental appropriations bill to take funds from military accounts in order to allocate it to border security.

In that regard, the Democratic leader has been proven right in his amendment that would have provided the $1.9 billion without taking funds from our troops. Now the Senator from New Hampshire says that he understands that his amendment will not survive the House-Senate emergency supplemental appropriations conference. The Democratic leader was right to offer his amendment and the Senate would have been wiser had it adopted it to fund border security with real dollars. As matters now stand, if Senator GREGG is correct, it appears there is no money in the budget or available to fund these measures. Let us not make false promises to the American people about border security. Let us not call for measures that we will not be able to pay for but wish to trumpet.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Roll Call, May 17, 2006]

CONGRESS' NEGLECT OF IMMIGRATION IS WHY WE'RE STUCK TODAY

(By Norman Ornstein)

Why do we need members of the National Guard patrolling our borders? It is a question, frankly, that doesn't have a very edifying answer. The National Guard is spread way too thin as it is, and I am not sure how many members are eager to go from two tours of duty in Iraq and Afghanistan to a new tour in Nogales.

If the response to that is, ''Well, we are just sending token numbers''—6,000—the counter-response is, ''Why mess with the Guard for token purposes when the results will include sharper tension with Mexico over the issue of militarizing the border and fodder for Hugo Chavez and our other hemispheric adversaries to dump on the imperialist and militaristic USA?'' Then there's the issue of whether anything in the training of the National Guard prepares them for border patrol work, whether on the front lines or back in the office doing paperwork.

Of course, we know the less edifying answers. The president needed a symbol of his determination to toughen the borders in order to pacify his base and to get conservatives in Congress to consider the immigration plan advanced by Sens. John McCain (R-Ariz.) and Edward Kennedy (D-Mass.) to legalize many of the illegals who have been in the country for years without having to expel 12 million people or more.

This is necessary because the House Republican leadership will not move a bill that has broad bipartisan support if it comes at the expense of losing even a sliver of the party's ideological base. There is another reason. We need some supplements for the undermanned border patrol forces who are themselves spread way too thin. The failures of the border patrol—not just caused by inadequate numbers but also by dysfunction within their agency and a continuing set of problems with coordinating responsibilities with federal customs and immigration officials—have led to serious public unhappiness in border states, especially Arizona, New Mexico and Texas, and a need for some kind of governmental response.

I find it more disturbing to dwell on the dynamics of this issue after seeing the film United 93 over the weekend. It is a superb movie, and the one-word description of it given by virtually everyone who has seen it—''harrowing''—is accurate. But to a student of government, the harrowing part goes well beyond reliving the Sept. 11, 2001, terrorist attacks and watching a graphic portrayal of a suicide-hijacking mission. The movie portrays a government in near-chaos, with the limited communication between the Federal Aviation Administration, air traffic controllers and the military filled with misinformation and nearly inexplicable delays. The military was unable to scramble any significant force to protect the airspace around Washington, D.C., for a long time after it became clear that the capital—and the Capitol—were obvious targets of the terrorist attack.

Perhaps others left the theater with a belief that the chaos was understandable; after all, who would have imagined a broad-based, concerted effort by suicidal terrorists to kill thousands of people in coordinated attacks on American soil? Most moviegoers probably felt a small sense of relief that at least now, more than four years later, we have learned some lessons, beefed up the communications among these agencies and the rapid response necessary when another attack occurs. But I did not.

The response by the federal government since Sept. 11 has been reluctant, halting and generally ineffectual in most areas of homeland security. I have no reason to believe that we have had a systematic effort to improve communications and coordination—not just between the FAA and the Pentagon but among other agencies that might be on the front lines in the next attack, which is not likely to come from commercial airliners.

I also know that the creation of the Department of Homeland Security—long after it was clear that the office setup in the White House was inadequate to the task—was done in a textbook fashion, specifically a textbook showing how not to do a major reorganization. Instead of focusing on the problems in border security by integrating the jobs of border patrol, customs, immigration and the Coast Guard, and instead of focusing intensely on crafting a strong bureaucratic culture around their shared missions, the White House and Congress brought together 20 disparate units in a massive reorganization that hasn't come close to working and will take many more years to become functional.

We saw what happened with Hurricane Katrina, and the problems with the Federal Emergency Management Agency are manifest in the border area and many others. We are woefully unprepared to deal with a biological attack, a pandemic, a massive natural disaster or another broad-based terrorist attack. One is coming—we just don't know when. United 93 underscores the ominous reality that al-Qaida takes a long time doing its planning before making its move. It is surely planning the next one as I write.

For nearly five years, we drastically have underfunded our first responders while failing to coordinate plans across state and regional lines. We still do not have interoperable communications among first responders. We have underfunded border security despite warnings that immigration issues were intertwined with basic security issues. No wonder this issue has exploded on the national scene, and no wonder we are seeing this belated move to ''solve'' the problem with a National Guard presence.

Where has Congress been in all of this? For nearly five years, absent without leave. It's been AWOL on oversight, AWOL on serious legislation to deal with either the lapses in the department or the broader problems of border security, AWOL on serious deliberation about broader immigration issues, AWOL on seeking bipartisan solutions for difficult problems that need some consensus in the middle. And it's been worse than AWOL in making sure that we have institutions of governance after the next massive attack. Congress' approval rating is 22 percent? That seems too high.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, the issue of border security is obviously a vital matter. The assurances that we will be able to check the flow of illegal immigrants will materially aid in the passage of this bill, a comprehensive bill—if assurances can be given that the border is secure and also with employer sanctions.

I think the Senator from Alabama has submitted a good amendment. It does not have the overtone of the enormous fence along the entire border, stretching 2,000 miles. It is targeted. We have been advised by the administration, by Secretary Chertoff, that there is support for the amendment of the Senator from Alabama. That is about what they are looking for. They have made a detailed analysis. Secretary Chertoff met with the Judiciary Committee on a very extensive briefing 2 weeks ago. We talked about this at length. For those reasons, I plan to support the Sessions amendment.

Madam President, I am prepared to yield back all time if Senator SESSIONS and Senator KENNEDY are prepared.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. If we can yield back time, we are prepared to go on to another amendment. We are trying to structure it so we will have three votes in the range of 2:30.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Madam President, I have not yielded back my time. I may yield back my time. I will have to get a short quorum call if we are going to ask consent on establishing—unless our leaders have agreed to have the series, I would have a short quorum call until we can clear that.

Mr. SPECTER. Madam President, while the Senator from Massachusetts

is working out the questions, I have discussed with him setting aside temporarily the Sessions amendment so that we can proceed to the Vitter amendment and not waste any time. Madam President, I have discussed it with Senator VITTER, who is agreeable with an hour and a half equally divided. I have made that suggestion to Senator KENNEDY. He is going to run it by his leadership to see if it is acceptable on his side. Why don't we proceed as if it is so that Senator VITTER is recognized now and starts to talk, and it will count against his time when we finally get the agreement.

The PRESIDING OFFICER. Is all time on the Sessions amendment yielded back?

Mr. KENNEDY. Yes, I yield back my time.

Mr. SPECTER. I yield back my time and Senator SESSIONS yields back his time.

The PRESIDING OFFICER. All time is yielded back.

Mr. SPECTER. I think the record is closed on the Sessions amendment, and we are now proceeding to the Vitter amendment, and we will await Senator KENNEDY's comment as to the unanimous consent request on an hour and a half. I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 3963

Mr. VITTER. Madam President, I call up amendment No. 3963.

The PRESIDING OFFICER. Without objection, the Sessions amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. VITTER) proposes an amendment numbered 3963.

Mr. VITTER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the provisions related to certain undocumented individuals)

Strike sections 601 through 614.

Mr. VITTER. Madam President, I bring before the Senate an important amendment, I believe, which goes to the heart of so many American concerns about the bill before us.

I must say, in the beginning discussion of this amendment, that I have grave concerns about this bill. I think it is a mistake in many aspects. I think it ignores history and ignores very specific, concrete experience. Not too long ago, in 1986, Congress passed similar measures, albeit on a much smaller scale, which ultimately and clearly failed to solve the immigration problem.

I am very fearful that we are repeating history, only on a much broader, much bigger, much more dangerous scale. My amendment goes to the heart of those concerns, goes to the heart of the matter, goes to the absolute heart of what so many Americans find most objectionable about the bill on the floor. That is what I would characterize what tens of millions of Americans characterize as amnesty provisions in this bill.

In introducing this amendment, let me thank the many coauthors I have who are in strong support of it: Senators GRASSLEY, CHAMBLISS, and SANTORUM. Also, I ask unanimous consent that Senator COBURN be added to this list of original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. All of us join together with tens of millions of Americans to simply say we cannot have amnesty provisions in this bill. We cannot have anything approaching amnesty in this measure. So my amendment would very clearly, very simply, withdraw those provisions from the bill.

Madam President, as I noted while speaking on another amendment about an hour ago, this is an interesting debate. The country, including the Senate, is widely divided on the question in many respects. Passions run deep from one end of the argument to the other. Yet to listen to the debate, particularly on the Senate floor in the midst of a fundamental disagreement, it is interesting that nobody says they are for amnesty, and everybody says they are for enforcement.

But, of course, the devil is in the details. Of course, it depends on what you mean by amnesty, what you mean by enforcement. And what I mean by amnesty certainly covers many provisions of the underlying bill, which my amendment would strike. More importantly, what tens of millions of Americans know through common sense, basic reasoning is amnesty is included in this underlying bill and we must take it out.

Maybe we can begin the discussion with what is amnesty. Well, the President, in his speech 2 nights ago, said that he is not for amnesty and ''they''—meaning illegal aliens—''should not be given an automatic path to citizenship.'' What is an automatic path to citizenship? The President himself, again, 2 nights ago, pointed to this distinction: ''that middle ground''—the one he is advocating—''recognizes that there are differences between an illegal immigrant who crossed the border recently and someone who has worked here for many years and has a home, a family, and an otherwise clean record.''

So what the President points to, in terms of why the provisions in this bill are not amnesty, is that distinction between folks who crossed the border illegally very recently and those who have been here for some time. I think it is very important, if we think about that distinction, to look at the details of the bill.

I encourage my colleagues to actually read this bill. The devil is in the details. If that were ever true, it is true in terms of this legislation. It is important to read the bill and understand the details. Yes, this bill does make a distinction between those who have been in the country 5 years or longer and those who have been in the country less than 5 years, and some other distinctions, 2 years and between 2 and 5 years. But again, the devil is in the details.

How does an illegal immigrant prove that he has been in the country over 5 years? You would assume the proof required is specific documentation which has been verified by the Government or other authentication sources. Those documents are certainly accepted, but they are not required, because if an illegal immigrant doesn't have those sources of documents—objective evidence—he or she can do something else. He or she can get a piece of paper, declare that he or she has been in the country over 5 years, sign his or her name to it, and that is it. That is all that is required.

Well, if the President's argument that this is not amnesty in large part hinges on this big distinction that we are not giving a path to citizenship for those who have been in the country a shorter period of time, should it not matter what documentary evidence is required? Doesn't it make a farce of the whole distinction if that immigrant can simply sign a piece of paper declaring otherwise? That obliterates the entire distinction. That means, in fact, that we are making available this fairly automatic path to citizenship to virtually everyone in the country illegally.

The President also points to four requirements: This is not amnesty because there is a penalty the immigrant has to pay because they have to pay their taxes, because they have to learn English, and because they have to be in a job for a number of years.

Again, I say to my fellow Senators and everyone watching this debate, the devil is in the details. Let's look at this bill. Let's look at what it requires.

No. 1, a penalty. It is true, the underlying bill means a person has to pay $2,000—$2,000—which is less, in some cases far less, than many legal immigrants pay to go through the legal process. Is it a penalty when the amount of money required is the same or, in many cases, less than a person who is following all the rules, doing everything we ask of them, following the law, living by the law, becoming a legal immigrant and a full citizen through the legal process?

No. 2, pay all their taxes. Well, not all their taxes. A person doesn't have to pay all of their back taxes. They have to pay a certain number of years; they do not have to go back for the entire length of time that person was in the country. Again, they are being treated better than the folks who have lived by the rules from the word go than the folks who are citizens through the legal immigration process who have had to pay taxes every step of the

way. Those folks who live by the rules have to pay all their taxes. These folks do not have to pay all their back taxes by any stretch of the imagination. The devil is in the details.

No. 3, learn English. Well, not necessarily learn English. The actual requirement can be met simply by being enrolled in an approved English language and history program. Again, the requirement can be met simply by being enrolled in a program with no test at the end of the program about proficiency or anything else.

And No. 4, work in a job for a number of years. Well, not the full period for a number of years, only 60 percent of the time for a handful of years.

Again, the devil is in the details, and I suggest that when the American people look at those details and ask themselves, is this amnesty, is this a fairly automatic path to citizenship, the answer will clearly be yes.

What does this sort of amnesty program do? We can debate about that, we can bring up hypotheticals, we can say I think it is going to do this, may do that, but the sure answer is to study history—and not ancient history, but recent history, going back only to 1986 because the last time Congress acted on this matter in a major way, it put together a package strikingly similar to this general package before us, which included an amnesty provision for agricultural workers.

One of the most interesting exercises I performed in thinking about this issue, in getting ready for this floor debate, was to go back to that time period, the mid-1980s, and read some of the arguments made in this Chamber, including the arguments of the folks who were for that immigration reform proposal of 1986.

The arguments they made are strikingly similar to the arguments being made by the proponents today: We need to do something comprehensive; it can't be enforcement only; we need to do this provision for earned citizenship, once, this one time, and then the problem will be solved forever because we will have border security and will have dealt with illegal immigrants then in our country.

What is the bottom line on that experiment doing exactly what we are debating doing again? The bottom line is not very hopeful in terms of solving the problem once and for all. The bottom line is back then the flow of illegal aliens was 140,000 per year, and now the flow is 700,000 per year. So it didn't exactly stop the problem.

The bottom line is back then the number of illegal aliens in the country was perhaps about 3 million, and today, by conservative estimates, it is 12 million. It didn't exactly solve the problem.

Mr. SPECTER. Madam President, will the Senator from Louisiana yield for a unanimous consent request?

Mr. VITTER. I will be happy to yield.

Mr. SPECTER. Madam President, we have now worked out that we will conclude Senator VITTER's amendment, then we will go to Senator OBAMA's amendment, which I believe we can accept.

I ask unanimous consent that between now and 2 o'clock, the time will be equally divided between Senator VITTER on one side and Senator KENNEDY and myself on the other.

Mr. KENNEDY. That is fine.

Mr. SPECTER. Senator KENNEDY and I will divide the time evenly, and we are agreed we will have two votes at 2:30 p.m. or perhaps 3 p.m. if the Obama amendment is to have a vote, but I do not expect it. And we preclude second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

Mr. VITTER. Reclaiming my time, Madam President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, there have been significant studies since 1986 that have looked specifically at the impact of what Congress did then. What do these studies show?

A 2000 report by the Center for Immigration Studies states:

> INS estimates show that the 1986 amnesty almost certainly increased illegal immigration, as the relatives of newly legalized illegals came to the United States to join their family members.

Again, these are INS statistics, not some think tank on the conservative side. These INS statistics show that even though 2.7 million illegal aliens were granted lawful citizenship through the amnesty program—and by the way, that was far more than anticipated—within 10 years, a new illegal alien population had replaced all of those and had grown to 5 million. That growth only continued.

Again, that growth today has gone from 140,000 illegal aliens streaming across the border per year back in 1986 to 700,000 per year today. That growth has been 3 million illegal aliens in the country going back to 1986 to at least 12 million today.

There was another study in 1992, 6 years after the agricultural amnesty program was passed. The Commission on Agricultural Workers issued a report to Congress—so a specific report to Congress that studied the effects, again, of the 1986 agricultural amnesty program. First, the Commission found that the number of workers amnestied under the bill had been severely underestimated. So the numbers that were talked about, in fact, the true numbers were well more than that.

Second, the Commission found that the agricultural worker amnesty only exacerbated existing problems:

> Six years after IRCA was signed into law, the problems within the system of agricultural labor continued to exist. . . . In most areas, an increasing number of newly arriving unauthorized workers compete for available jobs, reducing the number of work hours available to all harvest workers and contributing to lower annual earnings. . . .

Again, the bottom line is very clear. We had the same arguments back then as today: Let's do this once, the problem is solved forever; we will get tough with enforcement, we promise; really, we mean it. And what happened? That 140,000 per year increased to 700,000 per year. The problem of 3 million illegal aliens has increased to at least 12 million. We do need to study history and see what the impact of this amnesty program in this bill will be.

This threat is particularly grave, and I think it is absolutely certain that this will exacerbate the problem for the following simple reason: In terms of border security, everyone—everyone—on the floor of this body, everyone agrees that true border security cannot and will not happen overnight. The best case, if we are sincere about it, if we follow up this debate with adequate appropriations, the money, the manpower, the resources, the focus, the best case is that we will get a handle on our border in several years, perhaps 2 to 3 years, absolute minimum. But, of course, the other elements of this bill would be passed into law and would go into effect immediately. That is repeating the exact mistake of 1986. It would be one thing to consider an amnesty program down the road after we have acted on border security and proven that we have executed meaningful border security.

I don't think I could be for it even in that circumstance. That would be one thing. But what this bill does is something far different and even far more dangerous. What this bill does is put that program into effect now, immediately, move forward with that amnesty track immediately, even though everyone agrees, best case, we will only have meaningful border security in several years. So we establish the magnet to draw more illegal aliens into the country before anyone pretends that we have adequate border security or workplace security.

That is an even clearer reason that this is a big mistake and repeating the mistakes of the past, particularly in the era around 1986, on a much grander and, therefore, more troublesome scale.

Another point I wish to make is the overall numbers these provisions will lead to because I think there has been a lot of fuzzy math and a lack of attention to detail on this question. Again, the devil is in the details. Let's read this bill. Let's look at this bill and understand the full consequences of this bill, including the amnesty program.

The number folks toss around most commonly on the floor of the Senate, as well as in the wider debate around the country, is 12 million illegal aliens are currently in this country. Most experts seem to think that is a pretty minimum number. It could be significantly above that. Again, we need to look at the bill, and we need to understand the details because that is not the total number who may be eligible for citizenship.

The bill is very liberal and very broad in granting this citizenship path to an extended definition of family

members of these folks. So in fact, as a direct, immediate result of this bill, we could well have about 30 million folks on that citizenship path, getting on that path very quickly.

Over an extended number of years, that number will be far larger. Estimates, for instance, by Robert Rector over a 20-year period after enactment of this underlying bill is that it would mean a minimum of 103 million new folks gaining citizenship, possibly much higher. Again, the devil is in the details. Let's look hard at the numbers. Let's add it up. We are not talking about 12 million, we are talking about 30 million immediately. We are talking about huge numbers, 100 million or more over 20 years.

Finally, the argument that is most often put up against avoiding this sort of amnesty program is that we can't make felons of all these millions of illegal aliens in the country. We can't round them up and deport them. It is impractical. It may not be a good idea, even if we could do it. President Bush made this specific argument 2 nights ago. Many of my colleagues on the Senate floor have made the same argument.

The truth is that is not the alternative. That is a straw man, an easy argument to push aside and defeat. That is not the practical alternative at all. The practical alternative to rushing toward an amnesty program is to do meaningful things with regard to enforcement and other measures in the country that on their own can decrease the illegal alien population in this country over time.

Let me mention six items in particular: Secure the borders through Border Patrol agents, increase fencing, substantially increase detention space and do that before we do anything else. Some provisions are in this bill, but it is not being done before we move on to other aspects of the bill.

No. 2: Implement strong and serious worksite enforcement measures and, again, do that before other aspects of the bill are implemented.

No. 3: Eliminate document fraud through the use of biometrics, immigration documents, and secure Social Security cards.

No. 4: Reform existing laws to reduce the incentive to work illegally by providing the IRS with increased resources to investigate and sanction both employers and illegal aliens for submitting fraudulent tax returns, requiring the Social Security Administration to share information with DHS when no match letters are sent to employers, and barring illegal workers from counting work performed illegally toward Social Security.

No. 5: Encourage State and local law enforcement to enforce immigration laws themselves by giving them authority and by requiring the Feds to reimburse them for expenses directly related to that enforcement, and enhancing coordination and information sharing between the State and local law enforcement and Federal immigration authorities.

No. 6: Provide the Department of Homeland Security and the Department of Justice with the necessary resources to perform their jobs.

Madam President, these six things, without an amnesty program, would, in fact, lower the population of illegal aliens in this country over time. Why would it lower it? Because it would remove the incentives for those folks to stay here. It would remove the mechanism by which they can successfully stay in this country and gain employment.

So again, it is a straw man to talk about making all of these people felons. My amendment doesn't do that. We are not proposing that on the floor of the Senate. It is a straw man to talk about rounding up 12 million people around the country. It is a completely false argument to suggest that the only alternative to essentially amnesty is to have to do that and deport all 12 million of these people.

The practical alternative, which we can absolutely do, is avoid amnesty while implementing steps such as these six things. And that will provide real border security and real workplace security by demanding absolute requirements that ensure that folks getting jobs are legal immigrants, not illegals. That is the practical alternative which, over time, can dramatically reduce the illegal population in the country.

I don't know of any single aspect of this bill before us on the floor of the Senate that has Americans more concerned than these amnesty provisions. It goes to the heart of this debate. It goes to the heart of Americans' concerns that, once again, we are talking a good game about enforcement, but we are not demanding that it happen before considering other aspects of the bill. It goes to the heart of our experience in 1986, when that agricultural worker amnesty program clearly—clearly—was a huge part of the failure of that attempt to get our hands around illegal immigration. It was a huge part of the flow across our border, ballooning from 170,000 per year to 700,000 per year, and a huge part of the illegal population in our country skyrocketing from about 3 million to over 12 million.

So this is an important amendment that goes to the heart of so many Americans' concerns about the bill which are reflected in townhall meetings and discussions I have all across Louisiana. It is also reflected in every major national public opinion poll on the subject. Over and over again, Americans make very clear the huge majority want enforcement. There is a legitimate debate about a temporary worker program, but a huge majority have fundamental problems with these provisions which they know, using common sense, particularly when they understand the details of the bill, amount to absolute amnesty.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. THUNE). Who yields time?

Mr. MCCAIN. Mr. President, I ask unanimous consent to yield myself such time as I may consume.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. Mr. President, if I could clarify the request to understand that under our previous unanimous consent agreement on this amendment, it will come out of the time of the opposition.

Mr. MCCAIN. Mr. President, in a moment of seriousness, what is the parliamentary situation? How much time on either side?

The PRESIDING OFFICER. The time until 2 o'clock is divided between the Senator from Louisiana and the Senators from Massachusetts and Pennsylvania.

Mr. MCCAIN. Then I ask unanimous consent to be recognized for 10 minutes, taken from the time of the opposition to the amendment, which is the time of the Senator from Pennsylvania and the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, the Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I appreciate the remarks of my friend from Louisiana. Of course, it is not amnesty. Of course, it is not amnesty. I urge my colleagues, as well as specifically my colleague from Louisiana—next time up, I am going to bring a dictionary out here to confirm the definition of the word ''amnesty.'' The definition of the word ''amnesty'' is forgiveness. We did that in the 1980s and it didn't work. And to call the process that we require under this legislation amnesty, frankly, distorts the debate and is an unfair interpretation of it. I might add that the President of the United States, in a very powerful statement to the American people, called it what it is, and that is earned citizenship.

Now, I understand why the opponents of what we are trying to do would call it amnesty. That is a great idea. Call it amnesty. Call it a banana, if you want to. But the fact is that it is earned citizenship. The reason why the opponents of this legislation keep calling it amnesty is because they know that in poll after poll after poll, the majority of the American people say let them earn their citizenship. And when it is explained to the American people what we are requiring: A criminal background check, payment of back taxes, payment of a $2,000 fine, 5 or 6 years before getting in line behind everyone else in order to get a green card and then another 5 years or more, depending on how this legislation comes out, before eligibility for citizenship, it is a perversion of the word ''amnesty.'' Frankly, I am growing a little weary of it. I am growing a little weary of it. We ought to be debating this issue on its merits and only on the merits and not by labeling it something it is not.

Again, the definition of amnesty is forgiveness—forgiveness. We are not forgiving anything. We are trying to

find the best option—the best option—for an untenable situation bred by 40 or 50 years of failed Government policies.

What are the options we have with these 11 million or 12 million people? What are the options? One is the status quo. No one believes that the status quo is acceptable, to have 11 million or 12 million people washing around America's society with no protection of our laws, no accountability, no identity. It is terrible for America and our society. I believe the sponsors of this amendment and those of us who vehemently oppose it, because basically it guts the entire proposal, including the fact it is in direct contradiction to the leader of our party, the position of the President of the United States on it—but having said that, the status quo, I think my friend from Louisiana would agree, is unacceptable.

So what is the other option? The other option is to round up 11 million people and find some way to transport them back to the country from which they came. Many of them have been here since yesterday. Some of them have been here 50 or 60 years. Some of them have children who are fighting in Iraq. I am not interested—I wonder if the Senator from Louisiana is interested—in calling a soldier in Iraq and saying: By the way, while you are fighting today, we are deporting your parents. I don't think we want to do that. I don't think we want to do that.

And by the way, the columnist George Will pointed out the other day it would take some 200,000 buses from San Diego to Alaska in order to transport these people at least back to Mexico, and then I don't know how you get them back to other places.

So here we are with the option of the status quo, rounding up 11 million or 12 million people, or making it very clear that because they have broken our laws, they must pay a very severe penalty—a very severe penalty. And according to the Hagel-Martinez compromise, those people who have been here less than 5 years will have to go back. And in the case of 2 to 5 years, they will have to go back to a port of embarkation. If they have been here since January 1, 2004, then they have to go back completely—completely. If they have been here more than 5 years, then obviously we have given them a way to earn citizenship.

We passed an amendment that we supported that was the Kyl-Cornyn amendment, supported by me and Senator GRAHAM and Senator KENNEDY and others, that would prevent felons from ever being on the path to citizenship. So what does that say? What this proposal now says is anyone who came here innocently, who came here to work, which is the reason why the overwhelming majority of them did, will have a chance to earn their citizenship. And every time—every time—that the word ''amnesty'' is mentioned, I am going to try to get back on the floor and refute that because the description in no way fits the word.

So here we are now with a comprehensive approach to immigration reform which, probably, according to at least most polls, the American people are, overall, supportive of, and a President of the United States who gave what I think is one of the finest speeches of his presidency on this issue, and we are now considering an amendment which would fundamentally gut the entire proposal.

I want to quote from the President, again:

> It is neither wise nor realistic to round up millions of people, many with deep roots in the United States, and send them across the border. There is a rational middle ground between granting an automatic path to citizenship for every illegal immigrant, and a program of mass deportation. That middle ground recognizes that there are differences between an illegal immigrant who crossed the border recently and someone who has worked here for many years and has a home, a family, and an otherwise clean record. I believe that illegal immigrants who have roots in our country and want to stay should have to pay a meaningful penalty for breaking the law: To pay their taxes, to learn English, and to work in a job for a number of years. People who meet these conditions should be able to apply for citizenship, but approval would not be automatic, and they will have to wait in line behind those who played by the rules and followed the law. What I have described is not amnesty. It is a way for those who have broken the law to pay their debt to society and demonstrate the character that makes a good citizen.

I could not say it better than what the President of the United States says.

Fundamentally, Americans are decent, humane, wonderful people, and they recognize that these are human beings. They recognize that 99 percent of these people came here because they couldn't work, feed their families and themselves where they came from. As former President John F. Kennedy wrote, we are a nation of immigrants. We are all a nation of immigrants. I urge my colleagues to take a look at the words that were written back in the early 1960s by then-President Kennedy and that apply to the world today. It has a unique and very timely application. I intend to read from it as we proceed with the consideration of this bill.

I understand that there are differing viewpoints about how to handle this issue of illegal immigration. There is no State that has been more burdened with the consequences of illegal immigration than mine. We have broken borders. We have shootouts on our freeways. We have safe houses where people are jammed in, in the most inhumane conditions. We have the coyotes who take someone across the border and say: Tucson is right over the hill. And more and more people every year are dying in the desert. We understand that. That's why we understand that there has to be a comprehensive approach to this issue and only a comprehensive approach will reach the kind of resolution to this issue which has plagued our Nation and, frankly, my State of Arizona, for a long period of time.

I hope my colleagues will understand that this is basically an eviscerating amendment we are considering. Have no doubt about it. If you agree with the President of the United States and the majority of Americans—poll after poll shows that the overwhelming majority of Americans believe that we should allow people who are here illegally, after a certain period of time, to earn their citizenship—then you will vote against this amendment. If you believe that the only answer to our immigration problem is to build a bigger wall, then I would argue you are not totally aware of the conditions of the human heart and that is that all people, wherever they are, who are created equal, have the same ambitions for themselves and their families and their children and their grandchildren that we did and our forebears did. Our forebears, whether they came with the Mayflower or whether they came yesterday, all have the same yearnings to breathe free.

I hope my colleagues will understand the implications of this amendment. I hope my colleagues on this side of the aisle will understand the implications for the Republican Party of this kind of an amendment. Because what this is saying to millions and millions of people who have come here is: I am sorry, you are leaving.

I hope we can appeal to the better angels of our nature and turn down this amendment and move forward with a comprehensive solution to this terrible problem that plagues our Nation.

I believe my time has expired.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. VITTER. Mr. President, I ask for 5 minutes to respond to some of the arguments of the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, what is amnesty? I'll tell you what Merriam-Webster's dictionary says:

> [T]he act of an authority (as a government) by which pardon is granted to a large group of individuals.

What we are talking about is a large group of individuals illegally in the country. And the main consequence of that, under present law, is to leave the country. Surely, under this provision, we are pardoning them from that main consequence. Surely, this is a pardon from what present law states must happen to folks who have come into this country illegally, who stay in this country illegally.

The Senator from Arizona made several points, all of which I essentially rebutted in my comments before. There is a big distinction in this bill between those who have been here over 5 years and those under. There is on paper. And guess what. An illegal alien can satisfy the requirements of the bill that they have been here over 5 years and get all of the benefits of this amnesty program

by simply signing a piece of paper himself that it is so. It makes a mockery of the distinction.

The other requirements—a penalty. Yes, a penalty, which is less money than many immigrants pay to go through the legal process. Is that a penalty?

Paying back taxes—well, not all of them. Paying some back taxes. That is certainly less than folks who have gone through the legal process have had to do.

Learning English—well, not exactly. Being enrolled in a program is good enough, not proving any proficiency.

And working in a job solidly for a number of years. Well, not solidly for a number of years; 60 percent of the time is good enough.

The devil is in the details. I invite Members to look at the definition of amnesty. I invite Members to study the details of this bill because the American people certainly will and will come to the clear conclusion that is what it is and is a repeat of the mistake of past experience.

I would now like to yield 10 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 10 minutes.

Mr. CHAMBLISS. Mr. President, before I give my remarks, I would like to extend a thank you to the Senator from Arizona and to the Senator from Massachusetts. During the debate on this issue a couple of weeks ago, it became pretty obvious that there were some Members in this body who did not want to see the Senate function the way it always has, with respect to legislation, and that is to give all Members of this body the opportunity to debate an issue, to submit amendments, and to ultimately have a vote on those amendments and a vote on the legislation. Were it not for the efforts of Senator MCCAIN and Senator KENNEDY, we would have been at a deadlock, once again, and those of us who object to this underlying bill would not have had the opportunity to see the Senate work its will. So I do extend a thank you to these Senators for the very professional way in which they handled themselves during the course of the debate a couple of weeks ago, as well as right now.

I rise in strong support of Senator VITTER's amendment, and I am proud to be a cosponsor of it. I think this amendment crystalizes the whole debate we are having in the Senate on this bill. It all comes down to the simple question of whether you oppose or you favor amnesty.

I think the way Senators vote on this amendment will tell you where they stand on this issue, so I hope the American people will take careful note of how every Senator in this body votes on this amendment. I am in favor of a comprehensive immigration reform bill. The way I see it, there are three areas that must be addressed in accomplishing comprehensive reform. The first and foremost is border security. If we do not have operational control of our borders and serious interior worksite enforcement, then there is no point in trying to address the other issues relative to comprehensive reform.

The second key component we must address is to have a viable temporary guestworker program for those outside of the country who want to come to this country and work in a job that needs to be filled that cannot, or will not, be filled by an American worker.

The third component we must address is the reality of the 11 million, 12 million—whatever the number is—of illegal immigrants who are currently in the United States.

I think we can address all three of these issues without providing a new path to citizenship for those who are currently here illegally. There have been a number of alternative approaches mentioned throughout this debate. I had one for agricultural workers, for example, which would have allowed those workers to remain working for a period of 2 years before returning to their home country and have them reenter the United States on a valid and viable guest worker program. This would allow employers to structure their workforce in a way that they can send their illegal workers home and have them return in a manner that does not result in a complete work stoppage on our Nation's farms.

My main opposition to amnesty is that it has been tried before and it has been proven that it does not work.

As chairman of the Senate Agriculture Committee, my main focus in this debate has been on agricultural workers. I firmly believe that an amnesty is not in the best interests of agriculture in the United States. The agricultural amnesty in this bill is so similar to the Special Agricultural Worker Program that was enacted as the mechanism for the 1986 amnesty bill that it is really startling. We have heard many Senators talk about all that illegal aliens have to do in order to adjust their status. However, I don't think many people realize that the requirements are not the same for illegal agricultural workers, under the base bill. For illegal agricultural workers to take advantage of the amnesty in this bill, they must have worked at least 150 hours in agriculture over a 2-year period, ending in December of 2005. Meeting that threshold requirement will allow the illegal worker to obtain a blue card.

Once in possession of a blue card—which is a new process, a new card—that currently illegal worker has a choice of two different paths to a green card. In addition to paying back taxes, he can work 100 hours per year for 5 years or work 150 hours per year for 3 years and get a green card. There is not even a requirement to learn English for agricultural workers to take advantage of the amnesty provision in the base bill.

I think the requirements for illegal workers to take advantage of the agricultural amnesty are so low that I fear a repeat of what happened, and failed, in 1986. We should not repeat the mistakes we made before.

I am not the only one who feels this way. Several months ago, as we were ramping up toward bringing this bill to the floor, I had the opportunity to speak to 135 brand new American citizens who came from 125 different countries. They were sworn in at the Federal building in Atlanta, GA. After my comments to them and their swearing-in ceremony, I had about two dozen of these 133 individuals come up to me, one at a time, and say: Senator, whatever you do, please don't allow those folks who came into this country illegally to get a pathway to citizenship that is different from the path I had to follow.

In some instances, these individuals took 5 years; in some instances 8; in some instances 12. In one instance, 22 years that individual had to work to become a citizen of the United States. For all 133 of those individuals who stood up that morning and raised their right hand and swore to uphold the Constitution of the United States, it was the proudest day of their lives. You can understand why they do not want somebody who came into this country illegally to get a leg up on people who were in the position that they were in for so many years, trying to earn citizenship.

The people I saw at that naturalization ceremony truly did earn their citizenship, and it means something to them, as it should to everybody who becomes an American citizen. It does not seem fair to me to call the process those newly naturalized individuals followed earned citizenship and also call the provision for illegal agricultural workers in this bill earned citizenship. There is a fundamental difference between the two that should be recognized in the rhetoric of this debate.

Another problem I have with the agricultural amnesty provision is that it does not remedy the problem with fraud that was prevalent in the 1986 Special Agricultural Worker Program. Under the 1986 program, illegal farm workers who did at least 90 days of farm work during a 12-month period could earn a legal status. The illegal immigrants had to present evidence that they did at least 90 days of farm work, such as pay stubs or a letter from an employer or even fellow workers. Because it was assumed that many unauthorized farm workers were employed by labor contractors, who did not keep accurate records, after a farm worker had presented evidence that he had done qualifying farm work, the burden of proof shifted to the Government to disprove the claimed work.

The Government was not prepared for the flood of SAW applicants and had little expertise on typical harvesting seasons. Therefore, an applicant who told a story such as: I

climbed a ladder to pick strawberries, had that application denied, while those who said: I picked tomatoes for 92 days in an area with a picking season of only 72 days was able to adjust.

Careful analysis of the sample of applications from the 1986 worker program in California, where most applications were filed, suggests that most applicants had not done the qualifying farm work, but over 90 percent were nonetheless approved.

The propensity for fraud is not remedied in this bill and compounds bad policy with the ability for unscrupulous actors to take advantage of it.

I think the most important lesson to learn from the 1986 program is that providing illegal immigrants who work on the farms of this country does not benefit the agricultural workforce for long. History shows that the vast majority of illegal workers who gain a legal status leave agriculture within 5 years. This means that under proposed agricultural amnesty, those who questionably performed agricultural work in the past will work at least 100 or 150 hours in agriculture per year for the next 3 to 5 years. But after that, particularly in light of the changes made to the H–2A program, I expect us to be in the same situation in agriculture that we are today.

It is worth noting that the Immigration Reform and Control Act of 1986 created a Commission on Agricultural Workers, an 11-member bipartisan panel comprised of growers, union representatives, academics, civil servants, and clergy, and tasked it with examining the impact the amnesty for special agricultural workers had on the domestic farm labor supply, working conditions, and wages.

Mr. President, I ask for an additional 3 minutes.

Mr. VITTER. I have no objection and will be happy to grant the Senator an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. KENNEDY. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has 12 minutes.

Mr. KENNEDY. The other side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 12 minutes—the other side has 6 minutes.

Mr. KENNEDY. I thank the Chair.

Mr. CHAMBLISS. Back 6 years after the Immigration Reform and Control Act was passed, the Commission found that the same problems in the agricultural industry persist; the living and working conditions of farm workers had not improved; wages remained stagnant; increasing numbers of new illegal aliens are arriving to compete for the same small number of jobs, thus reducing the work hours available to each worker and contributing to lower annual earnings; and virtually all workers who hold seasonal agricultural jobs are unemployed at some point during the year.

I think the experience of the SAW program should serve as a lesson to the Senate as we grapple with how to handle our current illegal population. I believe the amnesty in this bill is far too similar to the SAW Program in 1986 and will likely have the same result.

We know from past experience that agricultural workers do not stay in their agricultural jobs for long, especially when they gain a legal status and have the option to work in less back-breaking occupations. Therefore, the focus on agricultural immigration should be on the H–2A program. This is the program that regardless of what the Senate does with amnesty, will be relied upon by our agricultural employers across the country in the near future.

Let me conclude by saying that while I do support a lot of the provisions in the underlying bill, there is one basic concept in the underlying bill that is baffling to me; that is, why do we have to connect a pathway to citizenship for those who are here illegally to meaningful immigration reform? There are a lot of these people—whether it is 11 million or 20 million, whatever the number may be—who came here for the right reason, that reason being to improve the quality of life for themselves and their families. We need to show compassion for those individuals.

Does that mean we ought to give them an automatic pass to citizenship that they may, or may not, want? We have no idea how many of these people will actually want to be citizens. Why do we grant that privilege which we cherish so much and those 133 individuals in Atlanta, GA, cherished so much on the day they were sworn in as American citizens? Why don't we simply leave the law on citizenship exactly the way it is today and let people who want to earn it earn it in the way that current law provides?

Let us look out for these 11 million or 12 million or whatever the number is. We have methods by which we can deal with those individuals and at the same time accomplish real, meaningful border security, as well as provide our employers in this country with a meaningful, quality supply of workers that they know are here for the right reasons and that they know are here legally.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield 6 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, thank you. I thank the distinguished Senator from Massachusetts for his continued leadership. I don't believe there is anyone in the Senate who has worked harder or done more or who understands the issue better than Senator KENNEDY.

We are dealing with a very complicated, difficult issue. It is complicated and difficult for many reasons. Partly it is complicated and difficult because we have deferred this issue for years. We have refused to take a responsible position on all the different aspects of immigration reform.

I hear with interest from some colleagues that 11 million to 12 million illegal aliens don't deserve a pathway to legal status and ultimately citizenship. They, however, do not come forward with alternatives. Obviously, border security is the core, the beginning of immigration reform. I am not aware of any Senator who has questioned or contested that point.

In fact, the underlying bill that we are debating today is replete—absolutely—in its focus on border security, enforcement of that border, doubling the border agents, doubling the budget, doubling the unmanned vehicles, doubling the technology, doing more in the fencing and physical protection of those borders.

That is not the debate. The debate, of course, resides around the difficult issues, the 11 or 12 million illegals now in this country.

This debate elicits great and deep emotions and passion—and it should. We were sent here to deal with the great challenges of our time, to resolve the issues, find solutions, not give speeches, not go halfway—just if we had a better border, if we could enforce our border in stronger or more effective ways, and the rest of it just sorts its way out. It doesn't sort itself out. That is leadership. That is what you saw from President Bush Monday night in his speech of 17 minutes; he laid it out clearly, succinctly. The American people could understand it.

It is a national security issue. It is an economic issue. It is a societal issue. You can take pieces of each and pick and choose which might make you more comfortable politically, but it doesn't work that way. It is all wrapped into the same enigma. It is woven into the same fabric. That is what we are dealing with.

On this issue of amnesty, I find it astounding that my colleagues who are straight-faced would stand up and talk about amnesty. Let me tell you what amnesty is. Some of you might recall 1978 when President Jimmy Carter pardoned those who fled this country, who refused to serve their country in Vietnam—unconditional forgiveness. That, my friend, is amnesty. This is not amnesty. So let us get the terms right.

The American people deserve an honest debate and exchange. Come on, let's stop the nonsense. If you have a better answer, step forward and give me a better answer for it. But let us at least be honest with the American people in what we are talking about. This is not amnesty. You all know what we are talking about. This is dealing with a set of criteria that people would have to follow in order to just get on a pathway.

Let me ask this question: Are we better off just to continue to defer this

and not allow the illegals in this country an opportunity to step out of the shadows? Who wins? Is it really protecting the security of this country? Is it really doing more in the way of enhancing our economy and our society to keep pushing these people back into the shadows? Where are we winning? How is this getting to the point, to the issue? How is this dealing with the issue that we must deal with? It is not. It is not.

I said this is a complicated, difficult issue. It is. There is not a perfect solution, or any solution we can come up with which is imperfect. Most solutions are imperfect. Most are imperfect. But it is going to take some courage from this body.

I don't think the American public sees a great abundance of courage in this town, in this Congress, in politicians today. Read the front page of the Washington Post today and read any poll.

But in this case, the President and the Congress are showing some courage to step forward in the middle of a difficult political year, where my own party, the President's party, is divided on this issue. But this is courage and leadership. It is leadership to take on the tough issues. What we are trying to do today and tomorrow and next week is find the common ground of responsible governance to deal with this issue.

This is one of those issues which tests and defines a society. It tests and defines a country. And the precious glue that has been indispensable in holding this country together for over 200 years has been common interests and mutual respect. I don't know of an issue that is facing our country today that is more important, that is framed in that precious glue concept more precisely than this issue.

I hope my colleagues will vote against the Vitter amendment. It is irresponsible. It doesn't present an alternative. I think what we have before us is an alternative.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I thank the Senator from Nebraska for his excellent presentation. He laid out as effectively as one could the reasons against this amendment. Effectively, the Vitter amendment undermines the whole concept of a comprehensive immigration bill. But having said that, it is not a constructive or positive solution to the challenges we are facing with the 11 million or 12 million undocumented individuals who are here at the present time.

First of all, our bill says if you are going to be able to earn citizenship, you have to pay a penalty. So you have to pay the penalty. You have to be continuously employed. You have to meet a security background check. You must learn English. You must learn U.S. History. You must pay all back taxes, and then you get in the back of the line of all of the applicants waiting for green cards. Effectively, it takes 11 years for them to be able to earn citizenship. That is the earned legalization program.

For those who say this is 1986, they are either distorting the record or haven't read it clearly. This is what we are talking about for those 11 million or 12 million people: They have to earn it—the end of the line, pay the penalty, work hard.

We have seen some of them join the Armed Forces of our country. That is the earned legalization.

What is Senator VITTER's answer? Do you know what is going to happen? You are going to have the 11 million or 12 million individuals continue to be exploited in the workplace. You are going to drive down the wages and, therefore, undermine working conditions for Americans. They are going to be exploited. They are going to be threatened in the workplace: If you do not do this job that I am asking you to do, I am going to call the immigration service and have you deported.

They are threatened. That is happening every single day all across this country to these individuals.

Third, if you are a woman you are going to suffer exploitation, you are going to suffer abuse, and you are going to suffer sexual harassment. That is the record. Those are the things that are happening, and at the end of the day you are going to have a two-tiered society. That is something that we, as Americans, have avoided. We take pride that we are a singular society and we struggle to create equality for all the people of our society.

If you accept the Vitter amendment, you are going to have a two-tiered society; that is, a permanent underclass. That is the United States of America. That is going to be the result if we are going to follow the recommendations. There is even the suggestion it was going to be for deportation.

We have heard different approaches to these 12 million. Our friends in the House of Representatives have effectively wanted to criminalize every 1 of these 12 million. We are going to criminalize them and stain them for the rest of their lives. We have rejected that.

We have, on the one hand, people prepared to play by the rules. By and large, these are the people who are devoted to their families, who want to work hard, who want to play by the rules. There are 70,000 permanent residents now serving in the Armed Forces in Iraq and Afghanistan and around the world, willing to do so. Many of them have died in Iraq and Afghanistan. They are prepared to do so. They want to be part of the American dream, as our forebears from other nationalities have been part of the American dream. They want to participate. We are saying to them, that is the choice: a permanent subclass, permanent underclass, permanent exploitation of 11 million or 12 million, or have them earn their way, go to the back of the line, show they are going to be good citizens, learn English, pay their back taxes, and demonstrate they are committed to the American dream.

That is the choice we have made. That is the choice which is clearly in the interest of our country. That would be altered and changed and dramatically undermined with the Vitter amendment. I hope it is not accepted.

I withhold whatever time remains.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I yield 3 minutes to the Senator from South Carolina.

Mr. GRAHAM. Mr. President, quickly, while Senator VITTER is speaking for a lot of people who believe we should not do this together, we should have border security and come back and look at a different way of doing this with 11 or 12 million people, that does not mean you are hateful, that does not mean you don't understand there is a problem. They have a problem with the citizenship path, and I understand that.

I agree with the President, Senator MARTINEZ, Senator HAGEL, Senator SPECTER, Senator KENNEDY, 70 percent of the American people—we have to do both. We are not going to put everybody in jail. That is off the table. It is not going to work. We are not going to deport 11 million or 12 million people. What do we do? Of these 11 or 12 million people, how many have children who are American citizens? How do you get them out of the shadows effectively to get control of the problem?

If we want to control the borders, control employment. If we do not control employment, we can build the biggest fence in the world, and it will not work. People will keep coming here until we get a grip on employment.

How do you control employment? Make sure you know who is being employed, and punish employers who cheat. Give them a chance to participate in the system that will work. The way to control employment is get people out of the shadows, sign up for a system we can control.

If you make them felons, they are not going to come out of the shadows. If you deport the parents and leave the children behind, they are not coming out.

If you think it is silly not to beef up the border, you are right. If you think it is wise to separate these issues and have a system where no one will participate by punishing people for coming out of the shadows, you are dead wrong. You can punish them in a fair-minded way after they come out of the shadows, with an incentive for them to come, put them on probation. We are talking about a nonviolent offense.

We need the workers. We have 4.7 percent unemployment. We have 11 million people here working. They are not putting people out of work; they are adding value to our country. Some

will make it to citizenship, some won't. Those who make it will have learned to speak English and will always have a job for 45 days. They will have a hard road but will have earned it if they get to the end. And some will not make it.

To deny they exist and to have a solution that will not get control of employment is just as irresponsible as not doing something about the border. That is why the President has chosen to get involved with a comprehensive solution that does two things at once—controls the employment and does something about the 11 million in a fairminded way—and also controls the border. If we separate these issues, we will fail again as a country.

I look forward to passing a bill that does both—deals with the employment problems, the border problems, and treats people fairly, punishes them fairly, and makes them pay their debt to society fairly. But I believe deep in my heart that some of the 11 million people will make it and some won't. They can add value to my country. And my friend from Florida is a value to my country, and he was not born here.

Mr. SPECTER. I yield 3 minutes to the Senator from Florida.

Mr. MARTINEZ. Mr. President, I rise in agreement and opposition to the Vitter amendment.

I must say I am delighted that the President on Monday sort of laid out the game plan. He laid out the vision. The vision is of a strong border, one that secures admittance into the country and does not permit illegal entry but understands we have a dynamic country, that we have a growing economy, that we have employment needs which today are being met by what is largely, in terms of this force, illegally here.

The fact is, we have tried to craft a compromise, which is what Senator HAGEL and I added to what was excellent work by Senator SPECTER in his work, and Senators MCCAIN and KENNEDY, who earlier than that came up with a concept to create a two- or three-tier system for those already here.

For those 10 million people who are in our country illegally working, those people need to be treated differently. We set up a three-tier system. Five years and more, and you are more established, you have been here a long time. The President talked about this on Monday night. He spoke of this very concept. Those people would have one path to permanency and to earn legalization very much along the lines of what Senator KENNEDY described—step after step after step.

Those who have been here less than 5 years but more than 2 years have to reenter the country legally. They have to go to an entry point and come back in legally. We will then know who they are. As a matter of fact, when those people do that, they then go back in and have the same requirements of those who have been here more than 10 years before they get a green card or before they become citizens. Then there are those more recent arrivals, and they do not get a benefit from the bill. Those are people who presumably have only come in the last couple of years to take advantage of what is currently perceived to be an opportunity.

As to all of those people, who are they and what are they doing? In my State of Florida, they are working in agriculture, they are working in construction, and they are working in a number of other enterprises. They are working in the tourism industry. They are building homes. If you are a home builder in Florida, you depend on this labor force and these workers to be there. You depend on them for you to make a good living, for your company to prosper, for your economy to continue to grow. In Florida, we virtually have no unemployment. In fact, we have labor shortages in some sectors of our economy. These demands are being met by this illegal system.

What we seek to do in this bill is to create a legal system, a system that can be compatible with our ideals and concepts of a nation of laws and also a nation that has for so many years been a nation that has welcomed immigrants. I am proud to be among them.

I understand the opportunity the American dream can provide to us all. I am very mindful of the openness and the love I felt in this country by the welcoming of people here who allowed me to make a way myself. This is what we are seeking for these people. After a long and projected trajectory, they have a path to citizenship. They, too, will have a stake in this country. They will have a stake in the outcome. We are not relegating them to a second-class citizenship; we are welcoming them as part of the whole.

I yield the floor.

Mr. SPECTER. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 5 minutes 45 seconds.

Mr. SPECTER. That is all the time that remains?

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes 45 seconds.

Mr. SPECTER. Mr. President, I oppose the amendment by the Senator from Louisiana because it makes enormous changes in the committee bill by eliminating the citizenship track.

I understand the point of the Senator from Louisiana. He does not want to see the 11 million undocumented immigrants on the citizenship track. But I believe we should not have a fugitive class in America, that it is necessary, in order to bring these immigrants out of the so-called shadows—they are out of the shadows for many purposes, and they are identifiable, working constructively in the American economy—to have them come forward, we are going to have to provide incentives for them to do so.

We have had a great deal of debate on whether there is amnesty in the committee bill. My own view is that we ought to tone down the rhetoric on that subject, not accuse one side of amnesty, trying to give away something that ought not to be given away, and in return not charging that amnesty is an evil argument.

We ought to deal with what the facts are. The issue is whether it is in our national interest, considering all the factors, to grant citizenship to these 11 million undocumented immigrants when they go to the end of the line if they perform certain tasks, if they meet certain criteria. The criteria are substantial and onerous: the payment of a fine, the payment of back taxes, the criminal background checks, learning English, the learning of American history, working a substantial period of time, and then 6 more years at the end of the line.

In a very realistic way, there is not really a lot of choice as to what we are going to do. It is totally impractical and unrealistic to think about deporting 11 million people. The question is, What do we do with them? How do we handle them?

It has been said in the Senate repeatedly but not too often that we are a nation of immigrants. Many of the Senators who speak start off by referencing their own backgrounds, as I have.

My father came to this country in 1911 at the age of 18. He came from czarist Russia. The czar wanted to send him to Siberia. As I have said in the past, he chose Kansas. It was, perhaps, a close call, I say in a facetious way. My mother came at the age of 6 with her family, settled in St. Joe, MO, and my parents have contributed to the American way of life. My father served in World War I and was wounded in action. In my Senate office, I proudly have their wedding picture. He was in uniform, and she was a beautiful bride of 19. They raised four children who contributed to our country and many grandchildren and many great-grandchildren and many great-great-grandchildren, so far.

This situation is a test of our humanity as a nation and the values in which we believe in the United States. We do not condone the breaking of the law, the breaking of the rule of law, but we are dealing with a very difficult situation in the best way we can.

With respect to the Senator from Louisiana, if his amendment were agreed to, we would not have comprehensive immigration reform. I believe comprehensive immigration reform is what is needed.

I yield the floor and reserve the final minute for perhaps some rebuttal.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. In closing the debate on this amendment, I thank all of the Members who have participated on both sides. It is a very important debate.

I wish to make three closing points.

First of all, I find it a little bit amusing and quite telling, the extreme reaction that erupted from some of the

Senators at my suggestion that this is amnesty. It sort of reminds me of the famous line ''Thou doth protest too much.''

I offered a textbook definition of amnesty, and I heard no rebuttal to the fact that these provisions match that definition. Here is an even better definition from ''Black's Law Dictionary,'' which specifically cites as an example:

The 1986 Immigration Reform and Control Act provided amnesty for undocumented aliens already present in the country.

What is the comparison between that 1986 act and this bill? The comparison is laid out, and it is very striking. Penalties were there in both cases. Learning English? Guess what. That was required in 1986. Working in a job for certain periods of time? Guess what. That was in 1986 as well. The parallels, the comparison is striking.

Second, again, it is a straw man to suggest there is absolutely no way to deal with the 12 million illegal aliens presently in the country but the provisions of this bill. There are alternatives. I laid out an alternative. Senator CHAMBLISS laid out an alternative offering these folks the ability to work as temporary workers but not an automatic guaranteed path to citizenship.

This is not about whether we deal with the problem; this is about how we deal with the problem. And amnesty, in my opinion, is exactly the wrong way to deal with the problem. Recent history has proven that.

Third, and finally, I do not offer this amendment ignoring the values behind American citizenship, ignoring the enormous devotion to those values that so many Americans have, perhaps most of all those who have recently become American citizens. I offer this amendment because of those values and my commitment to honor them because I truly believe the provisions of this bill, which amount to amnesty, will erode the concept of citizenship and will erode those very values.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania has 1 minute.

Mr. SPECTER. Mr. President, the essence of the argument from the Senator from Louisiana is when he says ''automatic guaranteed path to citizenship.'' Well, it simply is not so. There is nothing automatic when you have to fulfill the requirements of paying a fine and learning English and paying back taxes and working for a protracted period of time. There is nothing guaranteed about it. It is earned. And that is the hallmark of American values: to earn it.

That concludes my argument, Mr. President.

Mr. VITTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, as soon as Senator KENNEDY returns to the floor, I will make it official on asking unanimous consent locking in the two votes at 2:30.

I am informed there is agreement by authorized representatives of the leader of the Democrats. And we are now awaiting the arrival of Senator OBAMA, who is reportedly due here momentarily.

So until he arrives, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask unanimous consent to be able to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 2 minutes.

Mr. SESSIONS. Mr. President, on the Vitter amendment, I thank Senator VITTER for his amendment. Yesterday, Senator DORGAN offered an amendment to remove the guest worker program in its entirety, and I supported that because I believed it was flawed. Eventually, last night, we came back with an amendment that pretty much fixed it, that whole guest worker program, which I thought was good.

I think Senator VITTER's amendment points out and allows us to focus on the fact that this amnesty provision in the bill or regularization provision in the bill—whatever the fair way to describe it is—also has serious flaws. By supporting this amendment, it would be my intention to say let's make it better because I do believe we are not going to reject the people who are here and try to eject all of those people who have come illegally. We need to treat them in a decent and fair and caring way.

But also the rule of law is important. I think we ought not to develop a procedure that essentially provides every benefit to someone who came illegally that we would provide to those who come legally. So I will be supporting the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, when we complete debate on Senator OBAMA's amendment, we will then have two votes at 2:30. And then, after the votes, it is our desire, subject to Senator INHOFE's agreement, to come and debate his amendment. That may take a substantial period of time. I am advised by Senator KENNEDY they would like 2 hours equally divided. So that will take us fairly far into the afternoon. We will stay in session even though Director Negroponte will be having a session upstairs. This bill needs to be moved, so we will stay in session on the Inhofe amendment during that period of time.

Mr. President, I ask unanimous consent that the Senator from Idaho be given 2 minutes to debate the Vitter amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho is recognized for 2 minutes.

Mr. CRAIG. Mr. President, I do have to stand in opposition to the Vitter amendment and hope my colleagues will oppose it. We are all finding out that what we are attempting to do is phenomenally complicated, with all the different kinds of categories of work status and reality that we as the Senate and the American people are awakening to.

There is one reality. We have a lot of undocumented foreign nationals in our country. By definition, they are illegal. Some—and many—have been here 5 and 6 years or more or less. They are law abiding. They are hard working. They have not violated the laws, other than they walked across the border. And they did violate a law when they did that.

Earned adjustment is an attempt to bring some reality to this by saying, if you have been here and you worked a while, then you can stay and work: You will pay a fine, you will have a background check, but we will provide you with a legal status to stay and to work—not citizenship. If you want citizenship, you go to the back of the line and you qualify.

But we are talking about a legal work status. Some call that amnesty. I call it earned adjustment because we are beginning to find out who is here, why they are here. There is a background check. Are they legal in the sense, did they violate laws, other than walking across the border? And I do not mean to take that lightly.

The Vitter amendment wipes out all of that. It wipes out the work of the committee. It wipes out how you deal with 10 million undocumented people in our country in a systematic, legal, and responsible fashion.

I urge my colleagues to oppose the Vitter amendment. There may be a better idea than earned adjustment. But after having worked on this issue for 5 years and attempting to work with all of the interest groups to bring about some equity, stability of workforce—assuring that those who are out in the field now working or in our processing plants working can stay and work and keep our economy moving—I ask my colleagues to oppose the Vitter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that at 2:30 we proceed to the Sessions amendment for a

15-minute vote, and thereafter we proceed to the Vitter amendment for a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have Senator OBAMA on the floor ready to offer his amendment. There is some issue as to whether it has been worked through on all of the aspects of being modified. But I think we are very close. So what I would suggest we do is proceed to consider the Obama amendment, subject to some minor change which may be made on modification. And I ask unanimous consent that the time be equally divided between now and 2:30.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The time between now and 2:30 will be equally divided.

The Senator from Illinois.

Mr. OBAMA. Thank you very much, Mr. President.

AMENDMENT NO. 3971, AS MODIFIED

Mr. President, while the staff is consulting—we thought that the modifications had been agreed to—what I would like to do is tell you the essence of the amendment that I plan to offer. As soon as we get the go-ahead, we will offer it for immediate consideration.

Mr. President, I rise today to discuss amendment No. 3971, which pertains to the guest worker provisions in the bill. I have some significant concerns with respect to the guest worker provisions. I am concerned that the guest worker provisions are premised on the idea that American workers are not available to fill the jobs that are currently being filled by undocumented workers or foreign guest workers. I am not certain that is the case.

Recently, I was on vacation in Arizona. I was staying at a hotel, and I noticed that all the individuals who were serving drinks and lunch at the swimming pool appeared to be from the West Indies. So I asked one of them: Where are you from? He said: I am from Jamaica. I asked: Are all the guys here from Jamaica? He said: Yes. I asked: How do you come here? He said: Well, I work for a company that essentially brings us in for 9 months during the high season. Then during the low season of vacation we will go back. And they take care of all their paperwork and handle all their immigration issues.

And he said: Did you notice that all the women who are cleaning the rooms are from China? I said: You know, I happened to notice that.

It turned out they have the same arrangement.

What it indicated was essentially you have a situation in which international temp agencies are being set up where workers will come in for 9 months, doing jobs that I think many Americans would be willing to do if they were available.

Now, having said that, there are some industries in which guest workers and agricultural workers are absolutely necessary. So the question is: How do we create this program but make sure it is tight enough that it does not disadvantage workers? To do that we are going to have to make the prevailing wage requirements of this bill real for all workers and all jobs.

We have to ensure that communities where American unemployment rates are high will not experience unnecessary competition from guest workers. So to that end, I will be offering an amendment, as modified, along with Senators FEINSTEIN and BINGAMAN, to strengthen the prevailing wage language and to freeze the guest worker program in communities with unemployment rates for low-skilled workers of 9 percent or greater.

This amendment would establish a true prevailing wage for all occupations to ensure that guest workers are paid a wage that does not lower American wages. The bill on the floor requires that employers advertise jobs to American workers at a prevailing wage before offering that job to a guest worker. And it requires that employers pay guest workers a prevailing wage. But the bill, currently, without the amendment, does not clarify how to calculate the prevailing wage for workers not covered by a collective bargaining agreement or the Service Contract Act of 1965, which governs contracts entered into by the Federal Government. That leaves most jobs and most workers unprotected.

The bill currently before us simply states that an employer has to provide working conditions and benefits such as those provided to workers ''similarly'' employed. So as a consequence, a bad employer could easily game the system by offering an artificially low wage to American workers and just count on those workers not taking the job. The employer could then offer that job at below-average wages to guest workers, knowing they would take it to get here legally.

That is not good for American workers, and it is not good for guest workers.

My amendment fixes that language. It directs the employer to use Department of Labor data to calculate a prevailing wage in those cases in which neither a collective bargaining agreement nor the Service Contract Act applies. That would mean an employer would have to make an offer at an average wage across comparable employers instead of just an average wage that she or he is willing to pay. The amendment also would establish stronger prohibitions on the guest worker program in high unemployment areas. The bill currently bars use of the program if the unemployment rate for low-skilled workers in a metropolitan area averages more than 11 percent. Our amendment would lower that unemployment rate to 9 percent of workers unemployed with a high school diploma or less. There is no reason any community with large pockets of unemployed Americans needs guest workers.

This is a good, commonsense amendment which is endorsed by SEIU, the Laborers Union, the AFL–CIO Building and Construction Trades Department, and the National Council of La Raza. I urge my colleagues to support it.

I will actually call up the amendment to be read as soon as it comes back. I think there are some discussions taking place right now.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are still working on a modification. I am advised that it is a minor modification, but until we get it, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend from Illinois for bringing this to the attention of the Senate. I rise in strong support of the amendment. One of the dynamics of a comprehensive approach is legality and fairness. What we want to make sure is that when jobs are advertised for Americans first, Americans should be able to take advantage of the opportunity. But if they are going to go, by and large, to Hispanic individuals who come here, they ought to be treated at fair wages. There are protections that are included in the bill at the present time. The amendment offered by the Senator from Illinois addresses that issue and strengthens it. I hope we will find a way to accept it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, we have been having some discussion. My understanding is that the concerns that have been raised have to do with the underlying bill and not my amendment. As a consequence, I ask unanimous consent to send to the desk amendment No. 3971, as modified, and ask for its immediate consideration.

I also ask unanimous consent to add Senators LIEBERMAN and LANDRIEU as cosponsors of the amendment.

The PRESIDING OFFICER. Is there objection to setting the pending amendments aside?

Without objection, the pending amendments are set aside. Does the Senator have a modified version?

Mr. OBAMA. Yes.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. OBAMA], for himself, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. LIEBERMAN, and Ms. LANDRIEU, proposes an amendment numbered 3971, as modified.

Mr. OBAMA. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the temporary worker program)

Beginning on page 266, strike line 13 and all that follows through 267, line 3, and insert the following:

''(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance as follows:

''(i) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement.

''(ii) If the job opportunity is not covered by such an agreement and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

''(iii)(I) If the job opportunity is not covered by such an agreement and it is in an occupation that is not covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing wage level on another wage survey approved by the Secretary of Labor.

''(II) The Secretary shall promulgate regulations applicable to approval of such other wage surveys that require, among other things, that the Bureau of Labor Statistics determine such surveys are statistically viable.

On page 273, line 7, strike ''unskilled and low-skilled workers'' and insert ''workers who have not completed any education beyond a high school diploma''.

On page 273, line 9, strike ''11.0'' and insert ''9.0'', and on line 4, after ''immigrant'', add ''is not agriculture based and''.

Mr. OBAMA. I already explained the amendment, Mr. President. My suggestion would be that if the manager of the bill has no objection, we go ahead. I want to make sure I am going in the appropriate order, given the manager's fine job of keeping this process moving.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have no objection to proceeding to consider the amendment, as modified. There are still Senators on this side of the aisle reviewing it. We are not yet prepared to take a position. I think it is entirely appropriate to consider the discussion. I believe, as I said to Senator OBAMA privately, that we will work it out.

I yield to the Senator from Illinois for further debate.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. As I indicated, this amendment essentially says that the prevailing wage provisions in the underlying bill should be tightened to ensure that they apply to all workers and not just some workers. The way the underlying bill is currently structured, essentially those workers who fall outside of Davis-Bacon projects or collective bargaining agreements or other provisions are not going to be covered. That could be 25 million workers or so which could be subject to competition from guest workers, even though they are prepared to take the jobs that the employers are offering, if they were offered at a prevailing wage. My hope would be that we can work out whatever disagreements there are on the other side. This is a mechanism to ensure that the guest worker program is not used to undercut American workers and to put downward pressure on the wages of American workers.

Everybody in this Chamber has agreed that if we are going to have a guest worker program, it should only be made available where there is a genuine need that has been shown by the employers that American workers are not available for those jobs. Without this amendment, that will not be the case, and we will have a situation in which we have guest workers who are taking jobs that Americans are prepared to take, if, in fact, prevailing wages were provided for. I don't know anybody here—and I have been working closely with those who are interested in passing a bill—who wants to see a situation in which we are creating a mechanism to undermine the position of American workers.

I ask that this amendment be considered, and I will hold off on asking for the yeas and nays until we have had a chance to discuss it further.

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 having arrived, the vote is to occur in relation to the Sessions amendment No. 3979.

Mr. SPECTER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Have the yeas and nays been ordered on the Vitter amendment?

The PRESIDING OFFICER. Yes, the yeas and nays have been ordered on the Vitter amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama, Mr. SESSIONS.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 16, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—83

| | | |
|---|---|---|
| Alexander | DeWine | McCain |
| Allard | Dole | McConnell |
| Allen | Domenici | Mikulski |
| Baucus | Dorgan | Murkowski |
| Bayh | Ensign | Nelson (FL) |
| Bennett | Enzi | Nelson (NE) |
| Biden | Feinstein | Pryor |
| Bond | Frist | Reid |
| Boxer | Graham | Roberts |
| Brownback | Grassley | Salazar |
| Bunning | Gregg | Santorum |
| Burns | Hagel | Schumer |
| Burr | Harkin | Sessions |
| Byrd | Hatch | Shelby |
| Carper | Hutchison | Smith |
| Chafee | Inhofe | Snowe |
| Chambliss | Isakson | Specter |
| Clinton | Johnson | Stabenow |
| Coburn | Kerry | Stevens |
| Cochran | Kohl | Sununu |
| Coleman | Kyl | Talent |
| Collins | Landrieu | Thomas |
| Conrad | Leahy | Thune |
| Cornyn | Levin | Vitter |
| Craig | Lincoln | Voinovich |
| Crapo | Lott | Warner |
| Dayton | Lugar | Wyden |
| DeMint | Martinez | |

NAYS—16

| | | |
|---|---|---|
| Akaka | Inouye | Murray |
| Bingaman | Jeffords | Obama |
| Cantwell | Kennedy | Reed |
| Dodd | Lautenberg | Sarbanes |
| Durbin | Lieberman | |
| Feingold | Menendez | |

NOT VOTING—1

Rockefeller

The amendment (No. 3979) was agreed to.

Mr. SPECTER. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, for 1 minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 3971, AS MODIFIED

Mr. SPECTER. Mr. President, before moving on to the next vote, we have the pending amendment by the Senator from Illinois, Mr. OBAMA, which we are prepared to accept. I ask for a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the yeas and nays have been ordered on the Vitter amendment, and it is scheduled for a vote at the conclusion of this vote. The Senator from Pennsylvania has asked unanimous consent that prior to that vote the Obama amendment be considered by a voice vote. Is there objection? Without objection, it is so ordered.

The question is on agreeing to Obama amendment No. 3971, as modified.

The amendment (No. 3971), as modified, was agreed to.

AMENDMENT NO. 4018

The PRESIDING OFFICER. Under the previous order, a vote will now

occur in relation to the Vitter amendment.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that we call up the Stevens, Leahy, Murkowski, Jeffords, Coleman, Stabenow, Collins, and Levin amendment No. 4018 to extend the implementation deadline for the Western Hemisphere initiative by 18 months. I ask unanimous consent that it be allowed to be called up. It will simply be a voice vote.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. STEVENS, for himself, Mr. LEAHY, Ms. MURKOWSKI, Mr. COLEMAN, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, and Mr. LEVIN, proposes an amendment numbered 4018.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the deadline given to the Secretary of Homeland Security for the implementation of a new travel document plan for border crossings to June 1, 2009)

At the appropriate place, insert the following:

**SEC. ___. TRAVEL DOCUMENT PLAN.**

Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking ''January 1, 2008'' and inserting ''June 1, 2009''.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4018.

Mr. DOMENICI. What is the amendment?

Mr. LEAHY. The amendment simply extends for 18 months the Western Hemisphere travel initiative on the northern border.

Mr. VITTER. Mr. President, I object to proceeding with the amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Mr. President, the amendment has been called up. There is to be a voice vote by consent. A voice vote is still allowed to go forward. The Senator can vote against it, of course.

The PRESIDING OFFICER. By unanimous consent, the amendment has been considered. Under the previous order, a vote is now to occur in relation to the Vitter amendment on which the yeas and nays have been ordered.

Mr. LEAHY. Parliamentary inquiry, Mr. President: What happens to the amendment that was brought up by unanimous consent, amendment—

The PRESIDING OFFICER. That amendment is the pending amendment.

Mr. LEAHY. I thank the Chair. So does that mean that amendment becomes the pending amendment following the disposition of the Vitter amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I thank the Chair.

Mr. SPECTER. Mr. President, parliamentary inquiry: Isn't it true that we have the unanimous consent agreement to take up the Inhofe amendment after we have the vote on the Vitter amendment?

The PRESIDING OFFICER. No. The Inhofe amendment has not been agreed to be considered under any previous order.

Mr. SPECTER. Mr. President, then I ask unanimous consent that the Inhofe amendment be taken up following the amendment referenced by the Senator from Vermont.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, as I understand, at the time they are going to have the consideration of the Inhofe amendment, there may be a side-by-side amendment, and I hope that perhaps we would move to Inhofe. I would also hope that the Senator might withhold his unanimous consent request, at least until we have the full package, so that the Senate understands exactly the way we are going to proceed.

Mr. SPECTER. Mr. President, that is agreeable.

VOTE ON AMENDMENT NO. 3963

The PRESIDING OFFICER (Mr. MARTINEZ). The question is on agreeing to the Vitter amendment No. 3963. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The result was announced—yeas 33, nays 66, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—33

| | | |
|---|---|---|
| Allard | Crapo | Lott |
| Allen | DeMint | McConnell |
| Bennett | Dole | Nelson (NE) |
| Bond | Ensign | Roberts |
| Bunning | Enzi | Santorum |
| Burns | Grassley | Sessions |
| Burr | Hatch | Shelby |
| Byrd | Hutchison | Talent |
| Chambliss | Inhofe | Thomas |
| Coburn | Isakson | Thune |
| Cornyn | Kyl | Vitter |

NAYS—66

| | | |
|---|---|---|
| Akaka | Durbin | McCain |
| Alexander | Feingold | Menendez |
| Baucus | Feinstein | Mikulski |
| Bayh | Frist | Murkowski |
| Biden | Graham | Murray |
| Bingaman | Gregg | Nelson (FL) |
| Boxer | Hagel | Obama |
| Brownback | Harkin | Pryor |
| Cantwell | Inouye | Reed |
| Carper | Jeffords | Reid |
| Chafee | Johnson | Salazar |
| Clinton | Kennedy | Sarbanes |
| Cochran | Kerry | Schumer |
| Coleman | Kohl | Smith |
| Collins | Landrieu | Snowe |
| Conrad | Lautenberg | Specter |
| Craig | Leahy | Stabenow |
| Dayton | Levin | Stevens |
| DeWine | Lieberman | Sununu |
| Dodd | Lincoln | Voinovich |
| Domenici | Lugar | Warner |
| Dorgan | Martinez | Wyden |

NOT VOTING—1

Rockefeller

The amendment (No. 3963) was rejected.

Mr. DORGAN. Mr. President, I would like to explain my reasons for my vote on the Vitter amendment No. 3963.

It is estimated that there are currently around 12 million illegal immigrants in this country. And I do not support the proposition that everyone of those 12 million illegal immigrants currently in the United States should be given the right to a green card and eventual citizenship.

However, there are certain cases where illegal immigrants have been here for a very long time—in some cases, for decades. Some of these people have families here and deep ties to their local communities.

The Vitter amendment would have made no exception for such cases at all. And I do think that we need some flexibility for humanitarian reasons.

For this reason, I voted against the Vitter amendment. But I would like to emphasize that I am not in favor of a broad, blanket amnesty for illegal immigrants.

AMENDMENT NO. 4018

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I think we are ready to go on the amendment.

Mrs. HUTCHISON. Mr. President, if I could ask the distinguished manager if I, along with Senator CORNYN, could be added as cosponsors to Senator LEAHY's amendment since it applies to both the northern and southern borders?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have no objection to that. It fairly states it. This would apply to both borders and, of course, simply extends the time after which we have to have the kind of ID that would be called for in previous legislation. It would extend to both the northern and southern border. I will be glad to have both Senators from Texas as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Senator.

Mr. STEVENS. Mr. President, I offer an amendment to the Western Hemisphere Travel Initiative. This initiative is based on the 9/11 Commission's recommendations and was authorized in ''The Intelligence Reform and Terrorism Prevention Act of 2004.'' It requires the Department of Homeland Security—DHS—to implement a new documentation program by January 1, 2008. Once this program is in place, all U.S. citizens crossing the Canadian or Mexican border into our country must have a passport or other accepted documentation, such as a passcard, in order to verify their citizenship.

The Department of Homeland Security and the State Department are now in the process of developing the rules needed to implement this initiative. The air and sea portion of this initiative could be implemented as early as next January.

The Department of Homeland Security and the State Department are

evaluating two options for this initiative. The first would require a person entering the United States to present a passport. However, passports are expensive and require weeks to acquire. The second option is a passcard, which would be slightly cheaper, but would still require a background check and could only be used for travel between our country, Canada, and Mexico.

We must tighten our border security, but many have raised serious concerns about both of these options. It is unlikely the State Department will be able to process the flood of requests for passports and passcards that will come from this initiative by the deadline. The travel and business activities of millions of people will be adversely affected.

Take a military family reassigned from the lower 48 to Eielson Air Force Base, Alaska. They must drive from the lower 48 through Canada with all of their belongings, and they may not have the opportunity or funds to acquire the passports this initiative will require.

Our State is the only State in the Nation which cannot be accessed by land without passing through a foreign country. Alaskans are very concerned about the impact this initiative will have on travel to and from our State.

Every year, a large number of people travel to Alaska from the lower 48 on the Alaska-Canada highway, Also known as the Al-Can. Each summer we routinely see RVs on the road with license plates from New York, Pennsylvania, Florida, California, and elsewhere. These visitors will now need a passcard or a passport to drive to our State. I worry about how this will affect our tourism industry and the challenges it will create for Americans who want to visit one of the most beautiful places in our country.

These are just some of the issues which must be considered before implementing this plan. I believe the department of homeland security and the State department are operating under an unrealistic timeframe. We must ensure they have enough time to properly test and implement this system, which includes biometrics and new border security equipment.

Those of us in Alaska share a special relationship with our friends in Canada. It would be unfortunate if a hastily imposed initiative negatively affected movement in and out of Canada, or negatively affected our relationship with our neighbors.

The deadline Congress gave the Department of Homeland Security is fast approaching. Little progress has been made. We must pass this amendment to give them more time.

There is just too much at stake to rush this, and I urge my colleagues to support this amendment.

Mr. LEAHY. Mr. President, when the Congress passed the intelligence reform bill in 2004, it included measures that were intended to help secure our borders. These provisions, called the Western Hemisphere Travel Initiative, require that any person, including a U.S. citizen, present a passport or its equivalent, when they enter the United States from neighboring countries, including Canada or Mexico.

We have long enjoyed less-formal immigration policies with our neighbors, and especially with Canada. These policies encourage tourism and trade and promote goodwill between our nations.

The impact of the Western Hemisphere Travel Initiative on Northern Border states could be extremely harmful. Last year, Vermont exported $1.516 billion worth of products to Canada. And in 2003, more than 2 million Canadians visited Vermont, spending $188 million while here. Other northern border States enjoy similar trade and tourism benefits with Canada and face what could be significant downturns in their economies if this law is not implemented smoothly.

States like Alaska and Minnesota have unique challenges under the law because in Alaska all or in Minnesota some residents have to cross into Canada before entering the continental U.S. by land. In addition, several southern States could experience negative impacts. Florida and Nevada welcome significant numbers of Canadian tourists. Other States have strong economic ties to Canada and depend on the efficient movement of products across international borders.

We all know that the economic health of many small towns along the border depends upon their access to neighboring Canadian towns. In some cases, these towns share emergency services, grocery stores and other basic services. Residents sometimes cross the border on foot several times a day. This is true in Vermont, and I am sure that it is true for communities in many border States.

The State Department is developing a lower cost passport alternative—called the PASS Card—but that program has serious problems and potential for delay. The two Government agencies responsible for these PASS Cards are still arguing over what technology to embed in the card.

This issue alone indicates that DHS cannot meet the January 1, 2008 deadline when all U.S. citizens will need this card, or the more expensive traditional passport, to cross the northern border at land ports of entry.

I have worked in recent months with Senators STEVENS, JEFFORDS, COLEMAN, STABENOW, MURKOWSKI, CORNYN and LEVIN to extend the implementation date for this program to June 2009. That would give the U.S. and Canada an extra 18 months to prepare for a smooth transition. The bipartisan amendment we offer today should be non controversial and I hope all Senators will support it.

No one is suggesting that we should repeal the Western Hemisphere Travel Initiative altogether, but in order to protect our economy and to preserve community ties, we should intervene now to ensure that the Government can implement this law in a rational manner. An extension is the sensible way to proceed. We need to be smart about border security, not just to sound ''tough'' about it.

Mr. SPECTER. Mr. President, we are ready to have a voice vote on the pending Leahy-Stevens amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4018) was agreed to.

Mr. SPECTER. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4000

Mr. SPECTER. Mr. President, I will now ask for consideration of the Santorum amendment, amendment No. 4000, which has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. FRIST, and Ms. MIKULSKI, proposes an amendment numbered 4000.

Mr. SANTORUM. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow additional countries to participate in the visa waiver program under section 217 of the Immigration and Nationality Act if they meet certain criteria)

On page 306, strike line 13 and insert the following:

**SEC. 413. VISA WAIVER PROGRAM EXPANSION.**

Section 217(c) (8 U.S.C. 1187(c)) is amended by adding at the end the following:

''(8) PROBATIONARY ADMISSION.—

''(A) DEFINITION OF MATERIAL SUPPORT.—In this paragraph, the term 'material support' means the current provision of the equivalent of, but not less than, a battalion (which consists of 300 to 1,000 military personnel) to Operation Iraqi Freedom or Operation Enduring Freedom to provide training, logistical or tactical support, or a military presence.

''(B) DESIGNATION AS A PROGRAM COUNTRY.—Notwithstanding any other provision of this section, a country may be designated as a program country, on a probationary basis, under this section if—

''(i) the country is a member of the European Union;

''(ii) the country is providing material support to the United States or the multilateral forces in Afghanistan or Iraq, as determined by the Secretary of Defense, in consultation with the Secretary of State; and

''(iii) the Secretary of Homeland Security, in consultation with the Secretary of State, determines that participation of the country in the visa waiver program under this section does not compromise the law enforcement interests of the United States.

''(C) REFUSAL RATES; OVERSTAY RATES.—The determination under subparagraph (B)(iii) shall only take into account any refusal rates or overstay rates after the expiration of the first full year of the country's admission into the European Union.

''(D) FULL COMPLIANCE.—Not later than 2 years after the date of a country's designation under subparagraph (B), the country—

''(i) shall be in full compliance with all applicable requirements for program country status under this section; or

''(ii) shall have its program country designation terminated.

''(E) EXTENSIONS.—The Secretary of State may extend, for a period not to exceed 2 years, the probationary designation granted under subparagraph (B) if the country—

''(i) is making significant progress towards coming into full compliance with all applicable requirements for program country status under this section;

''(ii) is likely to achieve full compliance before the end of such 2–year period; and

''(iii) continues to be an ally of the United States against terrorist states, organizations, and individuals, as determined by the Secretary of Defense, in consultation with the Secretary of State.''.

**SEC. 414. AUTHORIZATION OF APPROPRIATIONS.**

Mr. SANTORUM. Mr. President, I congratulate my cosponsor, Senator MIKULSKI, for the excellent work we did as a team on this amendment. It took a long time to work this through the process, but we are very pleased today this amendment will be accepted.

Mr. President, when a country is a staunch defense ally and partner in the war on terror, they should have the opportunity to participate in the Visa Waiver Program on a probationary basis while they work to come into full compliance. I previously introduced and called up a similar amendment, No. 3214, cosponsored by Senator MIKULSKI. After consultation with the Judiciary Committee and the Department of State, this modified version seeks to address some of the concerns that have been raised.

I believe it is time that we allow average citizens from our allies in the war on terror to come to the U.S. for weddings, birthdays and funerals without the arbitrary determination of an embassy bureaucrat. This amendment provides an opportunity—just an opportunity—for our allies to allow their citizens to visit here for average events that we all take for granted. It does not provide an open-ended opportunity, just a 2-year window.

Any country that meets the probationary criteria then must come into full compliance within 2 years—if not, they are terminated from the program. This amendment also addressed a particular concern related to certain countries with a Cold War history where even in the post-Cold War era is held accountable for decades-old problems. This provision ensures that overstay and refusal rates are based on current issues after the country's admission into the European Union, and not its past history.

Finally, the amendment provides a one-time option to the Secretary of State to extend a country's probationary status under certain specific criteria. After researching countries that could meet the criteria of the amendment, my staff indicates that the only country currently meeting the eligibility requirements is Poland.

Poland has been a strong ally to the United States at a critical time in history. Poland was a staunch ally to the U.S. in Operation Iraqi Freedom. Poland has committed up to 2,300 soldiers to help with ongoing peace efforts in Iraq, and currently assumes command of the Multi-National Division—MND—Central South in Iraq. Poland demonstrated its commitment to global security by becoming a member of NATO. Poland also just recently became a member of the EU. And in 1991, Poland unilaterally repealed the visa requirement for U.S. citizens traveling to Poland for less than 90 days. Today, more than 100,000 Polish citizens travel to the United States annually.

On February 10, 2005, I introduced S. 348 designating Poland as a visa waiver country, with Senator MIKULSKI. This bill designates Poland as a visa waiver country. Under this amendment, Polish citizens visiting the U.S. within a 90-day period would not need to apply for a visa. Representative NANCY JOHNSON introduced identical legislation March 8, 2005 in the House, H.R. 635. Cosponsors of the bill are Representatives CROWLEY, JACKSON-LEE, HART, LAHOOD, SHIMKUS, LIPINSKI and WEINER.

I wrote a letter on February 9, 2005 to Secretary of State Rice urging the State Department's support for this legislation. Following up on that letter, I had conversations with Secretary Rice in the Spring of 2005. Then in February 2006, I again wrote to Deputy Secretary Zoellick urging his support for this legislation and offering to address any concerns the State Department may have. To date, and despite my staffs continued outreach, they have failed to take us up on the offer.

So instead of working for a compromise, we continue not to move forward on a bill to support the allies that have supported us. On August 31, 2005 Poland celebrated the 25th anniversary of the 1980 shipyard strikes in Gdansk and the creation of the Solidarity Trade Union. I was an original cosponsor of the Senate-passed resolution. The Senate passed a resolution commemorating this anniversary. I had the incredible privilege of meeting with Lech Walesa in October 2004 upon introduction of my bill designating Poland as a member country of the Visa Waiver Program. He is ''the symbol of the solidarity movement.'' Since the demise of communism, Poland has become a stable, democratic nation. Poland has adopted economic policies that promote free markets and economic growth.

When President Bush and then-Polish President Kwasniewski met in February 2005, they affirmed the goal of Poland entering the Visa Waiver Program—VMP, and agreed to a ''roadmap'' of mutual steps to advance this goal in conformity with U.S. legislative criteria. Through pressure from Congress and advocacy groups this issue has been advanced further than ever before, making this ''road map'' possible. Although the State Department has assured me it is working hard to implement a ''clean slate'' so immigration violations before 1989 will not render them ineligible for a U.S. visa, we know that a key element will be the 2006 review of visa overstay rates based on new 2005 data from Poland's first year in the EU. Another part of the agreement includes the U.S. working with Poland to meet the visa waiver requirements, particularly with regard to refusal and overstay rates, and exploring the provision of technical assistance to bring Poland's passports in compliance. I hope the cooperation that has begun will continue in earnest to ensure that Poland comes into full compliance in the 2-year window under this provision.

The current roadmap is a step in the right direction, but it continues to move at a very slow pace. We can and should do more for those that have stepped up to the plate and been incredible allies in the war on terror. Today, as we consider who should be allowed to immigrate to our country and how, we are focused on how to ensure security and the rule flaw for those that have come into our country illegally. For a moment I propose to turn the discussion to how to help those who have stood with us—indeed those who have fought and died with us—a preferred legal way to obtain a visa to come to this country.

I am here to stand with the Polish people in asking each of you to support bringing Poland into the Visa Waiver Program. Why is it that countries such as Brunei, Liechtenstein and San Marino are in the Visa Waiver Program, but not Poland or other allies in the war on terror? Polish troops have fought alongside American and British and Australian troops from day one of the war in Iraq. Just like Congress did in 1996 when it legislatively brought Ireland in as a full participant in the Visa Waiver Program, it is time for us to take a stand and support our allies in the war on terror.

As a country, we look forward to continuing our strong friendship with Poland and its new President Lech Kaczynski. Is this then a country that we don't want to allow its citizens to come to this country? Is this a country we want to say ''thanks for your help'' but we won't help your citizens come to the U.S.? I think there is a better course of action. Colleagues, this is an to opportunity for us to strengthen that relationship in a real and substantial way. Open a pathway for those that have supported us to come visit our country. In that way—in this small way—we can reach back the hand of an ally that has reached out to help us in the War on Terror. I urge my colleagues to support the Santorum-Mikulski-Frist amendment.

Ms. MIKULSKI. Mr. President, I rise today to continue the fight to right a wrong in America's visa program. It is time to extend the Visa Waiver Program to Poland. I am pleased to have formed bipartisan partnership with

Senator SANTORUM and Senator FRIST to introduce this amendment to get it done.

In September 2004, Senator SANTORUM and I met with a hero of the cold war, Lech Walesa. When he jumped over the wall of the Gdansk shipyard, he took Poland and the world with him. He told us that the visa issue is a question of honor for Poland. That day we introduced a bill to once again stand in solidarity with the father of Solidarity by extending the Visa Waiver Program to Poland.

Two months ago, I had the honor of meeting with Poland's new President, Lech Kaczynski. We reaffirmed the close ties between the Polish and American peoples. And we heard loud and clear that the Visa Waiver Program remains a high priority for Poland.

The people of Poland don't understand, and frankly neither do I, why France is among the 27 countries of the Visa Waiver Program but Poland is not. Poland, whose troops joined us in the opening days of war in Iraq. Nine hundred Polish troops stand with us there today. Seventeen Polish soldiers have been killed in Iraq and 27 wounded. Poland, whose troops are preparing to deploy to Afghanistan, sending 1,000 Polish soldiers to help lead NATO's mission there. The United States is blessed with few allies as stalwart as Poland. But we tell a grandmother in Gdansk she needs a visa to visit her grandchildren in America.

This amendment will allow Poland and any other European Union country with troops in Iraq or Afghanistan today to join the Visa Waiver Program for 2 years on probationary status. It will allow Polish citizens to travel to the U.S. for tourism or business for up to 60 days without needing to stand in line for a visa. Shouldn't we make it easier for the Pulaskis and Marie Curies to visit our country?

We know our borders will be no less secure because of this amendment. But we know our alliance will be more secure. I thank my colleagues for their support.

I am glad the Santorum-Mikulski amendment is being considered. It shows that when we work together we can get a lot done. I thank both Senators from Pennsylvania for their help and cooperation to get this amendment agreed to.

This amendment rights a wrong in America's visa program.

It is time to extent the visa waiver program to Poland. I am pleased to have formed bipartisan partnership with Senator SANTORUM and Senator FRIST to get it done.

In September 2004, Senator SANTORUM and I met with the hero of the cold war—Lech Walesa. When he jumped over the wall of the Gdansk shipyard he took Poland and the world with him. He told us that the visa issue is a question of honor for Poland. That day, we introduced bill to once again stand in solidarity and with the father of Solidarity by extending the visa waiver program to Poland.

Two months ago, I met with Poland's new President, Lech Kaczynski. We reaffirmed close ties between the Polish and American peoples. We hear loud and clear that the visa waiver program is a high priority for Poland.

Why is it important?

The people of Poland don't understand, and frankly, neither do I, why France is among the 27 countries of the visa waiver program but Poland is not. Poland, whose troops joined us in the opening days of war in Iraq, has had 900 troops stand with us there today. Mr. President, 17 Polish soldiers have been killed in Iraq and 27 were wounded. Polish troops are preparing to deploy to Afghanistan. One thousand Polish soldiers help lead NATO's mission there.

The United States is blessed with few allies as stalwart as Poland, but we tell a grandmother in Gdansk she needs a visa to visit her grandchildren in America.

What will it do?

This amendment will allow Poland and any other EU country with troops in Iraq or Afghanistan today to join the visa waiver program for 2 years on probationary status.

It will allow Polish citizens to travel to the United States for tourism or business for up to 60 days without needing to stand in line for a visa.

Shouldn't we make it easier for the Pulaskis and Marie Curies to visit our country? We know our borders will be no less secure because of this amendment, but we know our alliance will be more secure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4000) was agreed to.

Mr. SANTORUM. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I think we are prepared to go with the amendment by the Senator from Texas, Mr. CORNYN. I ask unanimous consent that we have a 2-hour time agreement on the Cornyn amendment equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Mr. President, reserving the right to object, it is my understanding that we have under unanimous consent my amendment and then a Democratic amendment and then the Ensign amendment. Is the Senator talking about changing that order?

Mr. SPECTER. Mr. President, I am talking about changing the order. When the Senator from Oklahoma and I last talked, Senator KYL had asked for more time and there were discussions. It is my understanding that we were trying to work through to simplify the action once it got to the floor. My interest is finding an amendment which I can bring to the floor and debate and vote. I am prepared to go any direction practicable to achieve that. We now have Senator VITTER on the floor who has another amendment. But may we hear from the Senator from Oklahoma as to what his concerns are?

Mr. INHOFE. Mr. President, I believe we are ready with our amendment, and under the unanimous consent we would be next. We are making some modifications right now. We could use a little time. We are ready to go in our place in line, unless it works out by unanimous consent that Senator ENSIGN and I change places so that my amendment would come up after the next Democratic amendment. That is what I will be willing to do.

I ask unanimous consent that we stay on the current unanimous consent request, with the exception that Senator ENSIGN's amendment be traded with mine, and I will take his place after the next amendment.

Mr. KENNEDY. Mr. President, reserving the right to object, we have been ready to go, urging relatively short time agreements. We have a whole series of proposals from that side and virtually none from here. This has been sort of a jump ball. We are trying to adopt to that. We have a Democratic amendment that we are prepared to go to. I am more than glad to work out with the floor manager as to time limits. The Cornyn amendment we had not expected would come up. It reaches the heart of the issue, and our side needs at least an hour for it. I know the Inhofe amendment has been a matter that has been discussed. We were trying to work out a time agreement for consideration of a side-by-side. There has been a good deal of discussion and desire to try to work out a relatively limited amount of time. We are not interested in prolonging that discussion and debate. I think people would like some time to try to figure that out. I think when they have that, we could have a relatively short period of time for the consideration of it. I am familiar with the Ensign amendment. Senator VITTER and Senator CORNYN have amendments. We are prepared to have a short time agreement.

Our concern is that we have a whole series of Republican amendments, and we are not having Democratic amendments. We want to try to work this thing through. We have had a short time. I have every intention of suggesting to our side that we have short

times. But we need to at least try to work out with the floor manager some opportunity for the consideration of our side.

Mr. SPECTER. Mr. President, do I understand the Senator from Massachusetts to mean he would be prepared to go, if we revert to the original schedule, with Senator INHOFE and take the Inhofe amendment now under a time agreement?

Mr. KENNEDY. Mr. President, I am glad to do the Inhofe amendment. I understand there is going to be a side-by-side, but I can't enter into a time agreement on that until that thing is finished. I know what the Senator's amendment is. I know people want to debate it. But in terms of limiting the time, until we have the side-by-side, I cannot enter into a time agreement. When we have a side-by-side, we would enter into a short time agreement—I think an hour or an hour and half evenly divided. There isn't any desire to prolong this. We are going to be on this bill—I understand there are 16 more amendments on that side which are serious amendments. We are going to be on this legislation. We made good progress today. I am glad to make some progress. That happens to be the reality on this. Maybe later in the afternoon we could get a short time agreement. But until we work out the side-by-side language on it, I would not be able to enter into a time agreement at this time on the Inhofe amendment.

Mr. SPECTER. Mr. President, it would be my suggestion, if we can't work out a time agreement on the Inhofe amendment, subject to an agreement on all sides, that we try to get the side-by-side before the afternoon is up so we can take up the Inhofe amendment first thing tomorrow morning, hopefully, on a limited time agreement. Would that be acceptable?

Mr. INHOFE. No. I respectfully say to the chairman that we are ready to go with our amendment, and the unanimous consent request propounded by the minority leader has a Democratic amendment prior to mine. I don't know. Is that still in the order? I ask if it is. If it is not, I ask for regular order.

Mr. SPECTER. Mr. President, is there a unanimous consent agreement setting up the Inhofe amendment?

The PRESIDING OFFICER. The previous agreement has been negated.

Mr. SPECTER. Will the Chair repeat that?

The PRESIDING OFFICER. The previous agreement has been negated.

Mr. INHOFE. The previous unanimous consent has been negated; is that my understanding?

The PRESIDING OFFICER. The Senator is correct.

Mr. INHOFE. How, might I ask, did that happen?

The PRESIDING OFFICER. By a subsequent unanimous consent request.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that we proceed to the Cornyn amendment with a time agreement of 2 hours, equally divided. There has been a suggestion by Senator CORNYN that he can take less time. Perhaps Senator KENNEDY can take less. But the consent agreement is for 2 hours, equally divided, with no second degrees.

The PRESIDING OFFICER (Mr. COBURN). Without objection, it is so ordered.

Mr. SPECTER. Then I ask unanimous consent that we proceed to the Vitter amendment for 45 minutes, equally divided, with no second-degree amendments.

Mr. KENNEDY. I am glad, when we get to the Vitter amendment, to go for 45 minutes, but I think it is our turn after disposing of the Cornyn amendment. Senator LIEBERMAN has an amendment, the Lieberman-Brownback amendment. We can agree to a short time limit on that. We would want to go back and forth.

Mr. SPECTER. Can we have a time agreement on Lieberman-Brownback, 45 minutes equally decided?

Mr. KENNEDY. I suggest an hour. I think we can get it done in 45.

Mr. SPECTER. One hour equally divided, no second-degree amendments.

Mr. ENSIGN. Reserving the right to object, may I hear the unanimous consent request?

Mr. SPECTER. The unanimous consent request is to go next to the Lieberman-Brownback amendment for 1 hour, equally divided, with no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Reserving the right to object, we already have a unanimous consent to go to the Cornyn amendment.

Mr. SPECTER. We already had the unanimous consent to go to the Cornyn amendment.

Mr. President, I ask consent that we then lock in the Vitter amendment next in sequence, for 45 minutes, equally divided.

Mr. INHOFE. Reserving the right to object, the problem is, I say respectfully to our chairman, we are being left out of this queue. If we are going right now to a Democratic amendment, under the regular order I should be the next amendment. As it is now, it would be the Cornyn amendment and then the Democratic amendment.

Mr. SPECTER. I modify the request. Senator VITTER is moved. After Lieberman, we go to the Inhofe amendment, and perhaps by that time we can have them laid down, side by side, and before we begin debate, have a time agreement.

Mr. ENSIGN. Mr. President, we have been trying to get in the amendment queue for a couple of days. We would love to get locked in, along with this.

Mr. SPECTER. We will move to get Senator ENSIGN in the queue, but we can start on the Cornyn amendment, and we will talk about this in the cloakroom.

Mr. KENNEDY. Mr. President, I have no objection. I think for the time being we have an order now for the next three. I have no objection to going at sometime to Ensign. I expect that would be the regular order. But for all intents and purposes, we agree to the three outlined here. I can understand they will probably follow along, but for all intents and purposes, we agree to the three.

Mr. SPECTER. Senator KENNEDY is correct. May we proceed?

The PRESIDING OFFICER. Without objection, it is so ordered. The requests are agreed to.

The Senator from Texas.

AMENDMENT NO. 3965, AS MODIFIED

Mr. CORNYN. I send a modification to amendment 3965 to the desk for consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN], for himself and Mr. KYL, proposes an amendment numbered 3965, as modified.

Mr. CORNYN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3965), as modified, is as follows:

On page 295, strike lines 14 through 16 and insert the following:

''(B) by the alien, if—

''(i) the alien has been employed in H–2C status for a cumulative period of not less than 4 years;

''(ii) an employer attests that the employer will employ the alien in the offered job position; and

''(iii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position.

Mr. CORNYN. Mr. President, the bill in the Senate is a massive piece of legislation creating a number of new programs within our immigration system. Obviously, we have talked a lot about border security and ways we can tighten our border to make sure we know who is coming into the country and why they are here.

Second, we also need to make sure we have a successful worksite verification program to make sure people who present themselves for employment in the United States are, indeed, legally authorized to work in the United States.

This is an enormously important comprehensive approach. While I hope it is clear that there are some segments of the approach I differ with and we are trying to improve, from my perspective, I do support the approach of

comprehensive immigration reform because we need to deal with the security demands of this problem, and we also need to deal with the economic demands of the problem.

One of the ways the underlying bill purports to do that is by creating what is called a guest worker program. One component of the guest worker program is as follows. For people who are not yet in the United States but who want to come in the future, this plan creates a guest worker program, but what it fails to do is to match up willing workers who want to qualify within this program with an actual job. In other words, what it does is creates a phenomenon whereby individuals who participate in the program can literally self-petition without having an employer sponsor that petition for them to get a green card—in other words, to become a legal permanent resident and be put on a pathway to American citizenship.

This amendment strikes that position of the underlying bill which would allow individuals participating in this guest worker program to self-petition; that is, without an employer being there to sponsor them and acknowledge and attest that no American worker is willing or has indicated a willingness to perform that job.

This is a fundamental worker protection provision which I hope my colleagues will support. If we don't agree to this amendment, it means individuals can come to the United States as a guest worker and then self-petition without having an employer there to sponsor their application for legal permanent residency and can thereby be on a path to become an American citizen and end up competing with American workers for those jobs.

We all understand America is a compassionate country. We want to make sure we do this immigration reform plan correctly. One of the things we do not want to do is actually hurt American workers. Unless we strike the self-petition provision, we will be doing exactly that. We need to make sure before someone can come in and get a job that, No. 1, they have a job and have not just self-petitioned and then become self-employed and perhaps even become a burden on the American taxpayer through various welfare benefits they might receive. We need to make sure before someone gets a job that the employer acknowledges and attests that they put it up, they advertised it, and they sought American workers to fill that job, but, in fact, no American worker has come forward. Only under those circumstances do I believe a guest worker ought to be able to fill that job. This underlying bill does not provide for that.

This amendment would say that after 4 years of cumulative employed status as an H–2C worker, before someone can apply for and receive a green card, they must do two things: No. 1, they have to find an employer willing to sponsor them; and No. 2, they have to attest that no American worker has stepped forward when that job has been offered to the public at large; otherwise, we will find this guest worker program in direct conflict with the needs of native, American-born workers and otherwise legal immigrants. That would be a terrible direction for us to head down.

This is one of those provisions of the bill with which, since it is 600 pages long, many Members may not be intimately familiar. I hope by filing this amendment and by having this debate they can inform themselves and hopefully agree to support this amendment which is designed to protect American workers and to put the interests of American workers first. Then and only then can a participant in this guest worker program get the job that an American had an opportunity to get but decided not to apply.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. I yield such time as I might use.

We will look at exactly who these individuals are who are going to come into the United States and what the process is.

First, we will find out that an employer needs a particular kind of function to be able to continue their business—maybe it is related to the employment of other individuals. They search around to try, for some 60 days, to see if there is an American prepared to take that job at that salary. They cannot find an American prepared to take that job, and they still need to have that particular function filled. So they find out there is a willing person from overseas prepared to take that particular job, get paid the particular wages mentioned for that particular profile, and that individual then comes to the United States and works for that particular employer.

Under the current legislation, we are saying that after a period of 4 years—or even before the 4-year-period—if the employer wants to petition for a green card for that particular employee, they can go ahead and do that. That is in the law at the present time.

Senator CORNYN's amendment does not do that. We provide after 4 years that if the individual wants to make a petition for that particular job, they ought to be entitled to do so. They will still have to wait the 5 years in order to become a citizen. That is a total of 9 years to be able to become a citizen. Senator CORNYN does not want that particular right for that particular worker.

One of the things we have seen over the period of years, going back to the Bracero issue in question where we had individuals who came into the United States and were extraordinarily exploited—they were exploited all the way through by unscrupulous employers because those particular workers did not have any rights in order to be able to protect themselves. In the 1960s, we got rid of the Bracero because it was such a shameful aspect in this country's employment history.

We want to avoid the same circumstance with this new legislation. We have tried to learn from 1986, when we had amnesty. We also should have had the prosecution of employers employing individuals who should not have been employed, but that was never enforced.

Now we have the earned citizenship. Now we have protections for workers to come in here.

Now, we have strengthened border security. We have learned from the past. One of the important experiences of learning from the past is not to permit these workers to be exploited. One of the best ways to ensure that is to give them—at least after 4 years of working in the United States—the opportunity of getting on the path for a green card and eventually citizenship.

Now, the Senator from Texas does not want that. He wants to leave all of the power with the employer. Well, I do not buy that. The employer starts out saying: Look, I need a worker. I can't get a worker. I really need you. You come on in here. I will really look out after you. But I want to tell you something: unless you are going to work those extra hours—and I might not pay you overtime—unless you are going to do this or unless you are going to do that, I will never petition for you. And you are not going to be able to petition for yourself.

So I think it is an issue about whether we are going to respect individuals and have as much respect for employees as we have for the employers.

It is interesting that under this legislation, if an employee comes in, and the employer likes that person, they can go ahead and make the petition now for the green card. They have the power to do that in the first year, the second year, the third year, and the fourth year. So we are just swinging all of this power into the hands of the employers.

If you accept the Cornyn amendment, you are effectively leaving people high and dry on that. I do not think that is what we are trying to do.

We are trying to have fairness in the legislation. We are trying to have legality, strong border security. We are trying to have an employer-employee relationship where the employer is going to know that employee, has the documents and, therefore, will not go out and hire other employees who are here illegally and give them depressed wages, which will depress the wages on Americans and American workers, which is the current case.

We are saying we want to stop the exploitation of both those individuals and what is happening to American workers. But we want to at least say that after 4 years, where this individual has filled an important slot that no American worker was prepared to fill, and they want to be a part of the whole American dream, play by the

rules, pay their taxes, do what any citizen would do in the United States but the employer said: No, I am not going to do it, and then they have to go back to their country, it leaves all the power with the employer and denies the employee respect, which I think will invite further kinds of exploitation.

We do not want to go back to the Bracero period. And this is starting us back down that road. I think it is the wrong way to resolve this particular issue. I hope the amendment will not be accepted.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I want to make sure our colleagues understand exactly what this amendment does. It is very short. Let me read from it. What it says is one can qualify for a guest worker program if ''the alien has been employed in H–2C status'' and maintained that ''for a cumulative period of not less than 4 years. . . .''

Let me make clear, that was part of a negotiation that Senator MCCAIN and Senator GRAHAM and others and I entered into before we offered the modification because they felt it would be fairer. I agreed that was a reasonable request on their part. I would hope that others would feel the same way.

But the second and third parts are the guts of this amendment. It also requires that:

An employer attests that the employer will employ the alien in the offered job position; and—

And this is the most important part. This is the American worker protection—

the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position.

Now, this underlying bill provides a lot of protection for guest workers who qualify under this program. And I agree that they should be protected from exploitation. That is one of the reasons this law has been created. But it does not create exploitation at the hands of an employer any more than any other employee in America is subjected to exploitation by their employer. In other words, this does not bind the guest worker to a particular employer. Indeed, they can get this certification from any employer who has a job they want to fill subject to the requirement that the Secretary of Labor provide this attestation that there are not sufficient U.S. workers ''able, willing, qualified, and available to fill the job position.''

This amendment does not say these individuals cannot eventually get a green card if they otherwise qualify, having been sponsored by an employer, and for a job that no American has stepped forward to fill. So it does not tie a worker to a particular employer. It does not limit that. It does not say these guest workers cannot ultimately get a green card.

Ultimately, this is not so much about protections for the guest worker as it is protections for the American worker. Indeed, one of the attributes of sovereignty is that the United States has to regain some control not only of our borders but of our broken employment system which, right now, employs millions of people who cannot legally work in the United States. We are trying to fix that. But it does not fix the problem to say that individuals can continue to come into the United States and compete with American workers.

We ought to be all about trying to work out a system that protects American workers and yet allows guest workers who qualify to fill the gaps that American workers cannot fill. I suggest to my colleagues if you believe the rights of this guest worker are paramount and the rights of the American worker are subservient—if you really believe that, then you ought to vote against the amendment. But if you believe we ought to protect the rights of American workers first, and then, in the event the Secretary of Labor certifies there are not sufficient American workers, allow guest workers to work—if you think that is a better system, then you should vote for this amendment.

In no sense does this subject any guest worker to exploitation. They are protected under this bill by the labor laws that protect all American workers. All it does is protect American workers from having to compete against guest workers for jobs that would be rightfully theirs and available except for the fact that someone has self-petitioned and taken a job that an American would otherwise want and would be able to do.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have difficulty following the logic of my good friend from Texas because American workers are protected when the temporary worker is protected.

Now, let me give you a possible factual situation: An employer has one of these temporary workers. They have gone out and petitioned and can't find an American to do this job. They can't find an American to do the job. Then they have the foreigner who comes in and works for them, and works for them for 4 years.

Now, under our proposal, after the 4-year period, if they have paid their taxes, if they have not gotten into trouble with the law the rest of the way, they can petition for a green card. Then, if they follow all the procedures, pass the naturalization exam, they can become a citizen 5 years after that—9 years.

Now, this is what Mr. CORNYN, the Senator from Texas says: Look, after the 4 years, we are going to take away the right of that person—unless the employer is going to petition for them, unless the employer is going to do it.

Now, you tell me what is going to happen in a lot of the workplaces. The employee says: Look, Mr. Employer, when are you going to petition for me? I have worked for you for 4 years. Under the old bill, they used to be able to say I could petition. But they passed the Cornyn amendment, and it says, no. I am completely dependent upon you.

Well, the employer says: Don't ask for a raise. Take a wage cut. Take a wage cut for a couple of years. Don't complain about unfair working conditions. Don't complain about it. Don't complain about working a little longer, working Saturdays, maybe a few hours on Sunday. If you complain about it, I am not going to petition for you. You are going to be left high and dry.

You tell me how that protects American workers. Once you get the exploitation of the temporary worker, we see what happens, as we have seen today: Employers are employing the undocumented and they are paying them a good deal less. That is an adverse impact and effect on American wages. If you raise those wages and give them the protections we have under our legislation, that is going to protect American workers.

I fail to understand—when you give the whole deck of cards to the employer, and tell the employer he can do anything he wants with that employee—how that employee is protected and how an American worker is protected. I just do not get it. I just do not see it. It defies history. It defies the history of the old employment. It can work very well for that particular employer because he has that employee right by the throat because if that employee complains, does not do what the employer says, that person is on their way back to whatever country they came from, or they will disappear into the community. That is not good. That is what we are trying to avoid—exploitation.

I think this is what we have tried to do throughout the bill both in terms of the exploitation of workers, in terms of the legal system, the legal structure, and in terms of the border security, and the others. I have difficulty in following the rationale and the reasoning that if you give one person in the employer-employee relationship all of the cards, that somehow inures to the benefit of the employee. It never has in the history of the relationship between workers and employers, and it will not. And it will not if that is the outcome of the Cornyn amendment.

Mr. President, I yield the floor.

Mr. CORNYN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. KENNEDY. Sure. Yes.

Mr. CORNYN. Mr. President, I ask the distinguished Senator from Massachusetts whether there is a requirement that an employer sponsor a guest worker when they first enter the country under the H–2C program?

Mr. KENNEDY. The answer to that is affirmative, yes.

Mr. CORNYN. I would ask, if I may, Mr. President, if the Senator will yield for one more question, whether it is true that, for example, high-skilled workers, H–1B workers—people with math, science, engineering degrees, and the like—whether there is a requirement that there be an employer who actually sponsors those workers before they can receive one of those types of visas?

Mr. KENNEDY. The answer is affirmative, yes.

Mr. CORNYN. I thank the Senator very much.

Mr. KENNEDY. Mr. President, it is a very fundamental reason why. You are talking about the H–1B. You are talking about the most highly skilled, highly educated, and highly competent individuals in the world—H–1B—going on to universities, going into the high-tech areas, individuals for which the world is their oyster. They do not suffer the kind of exploitation, the kind of humiliation that other workers suffer. These workers are taking jobs that American workers will not take.

There is a big difference between that and going to the top companies of America and working for the CEO, when you have all the education, the professional degrees. Those individuals are not the ones being exploited. They never have been, and they are not today. It is an entirely different situation.

We are talking about the tough, difficult work that no American will take. We are talking about the history of these kinds of jobs. We have seen it. We have read about it. We have experienced it. I did, certainly, in the early 1960s, going across the Southwest in the Bracero Program. Exploitation is one of the sad aspects of American employment history. We do not want to go there.

The H–2Bs in my State are doing very well at universities and colleges and enormously successful businesses. The idea behind the H–2Bs was getting the very able and gifted people. As history has shown, that results in the hiring of additional people because of their abilities. They end up, as a result of these programs, adding key elements of success to various businesses and employment expands. Generally, those are good jobs with good benefits and good retirement. That is an entirely different situation. I am glad we were able to clear that up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I appreciate the Senator from Massachusetts candidly responding to the questions I asked. What his answers established was that in order for guest workers under his proposal to come into the country in the first place, they have to have an employer, someone who has indicated that there is a job available for them. Under the amendment, they could work in that job for a cumulative period of up to 4 years. But for some reason, under the current bill, after 4 years, you would no longer have to have an employer who would certify that they had a job available for that guest worker to do and that no American was available to do it.

I also appreciate the Senator's candor in answering the question about highly skilled workers. As his answer indicated, highly skilled workers cannot come into the country unless there is an employer who is willing to sponsor them. My point is that we ought to make our immigration law uniform across the employment spectrum, whether you are a high-skilled worker or whether you are a low-skilled worker.

The Senator mentioned the Bracero Program and reports of exploitation of workers in America's past. I won't debate that with him. I have read of reports of problems with the Bracero Program. While the program as a whole was pretty good, I won't debate whether there were some problems associated with it. But America, in 2006, is not America in the 1950s. The legal protection that is available for guest workers under this program, the vigilance of the media and advocacy groups, will make it virtually impossible for the kind of exploitation the Senator talks about to occur. What happens is, in spite of the protections offered to the guest workers under our labor laws and despite the vigilance of the media and advocacy groups that would likely disclose any problems with a relationship between a guest worker and that employer, what we are finding out is that the one who ultimately has to pay the price for this concern, that I believe will not be realized and is not real, is the American worker who can't find a job because we have offered that job to a guest worker who has come into the United States.

At bottom, we ought to be as sure as we possibly can that whatever we do doesn't create more problems for American workers. The answer is, let's give American workers every opportunity to find jobs and then, if we can't find a sufficient workforce, let's give guest workers an opportunity to fill in those gaps. That is a worthy objective. But we should not be blind to the potential dangers to American workers losing jobs to guest workers under this program, unless the protections in this amendment are adopted—that an employer attest that the employer will employ the alien in the offered job position and the Secretary of Labor determines and certifies that there are not sufficient U.S. workers who are able, willing, qualified, and available to fill the job position.

I don't know whether there are others who want to speak either for or against the amendment. I know we agreed to an hour between us. Depending on whether the distinguished manager of the bill on the minority side would be interested in yielding time back, I think we have had a chance to cover the merits of this particular amendment. I am prepared to yield the remainder of our time back, if he is likewise prepared to yield the remainder of his time.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I believe the Senator from Texas, before he went to a necessary meeting at the White House, indicated he was prepared to yield back his time if I yielded back my time. I am prepared to yield back my time.

Mr. President, I withhold my request. I yield 5 minutes to the Senator from Nebraska, if I have it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

(The remarks of Mr. HAGEL are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the time has been yielded back by Senator CORNYN and Senator KENNEDY on the Cornyn amendment. We are now ready to proceed with the Lieberman-Brownback amendment. If they will come to the floor, we can move ahead.

In the absence of any Senator seeking recognition, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we had expected the Cornyn amendment to take 2 hours, which was the time agreement. Time was yielded back. Senator VITTER has now come to the floor. We are unable to proceed with the amendment in regular form, but I do think it would be appropriate to have Senator VITTER discuss his amendment, which could abbreviate the time which we would need when he lays it down. So, if I may, I would like to yield the floor to the Senator from Louisiana for purposes of having him discuss his amendment.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 3964

Mr. VITTER. Mr. President, I thank the distinguished chairman of the committee for creating this opportunity to begin to discuss this amendment.

This is amendment No. 3964. This amendment would close some very serious invitations for fraud that are contained in the bill as it now stands.

I said on the floor before that I have some very serious reservations with this bill. One of those is that it is riddled with loopholes and invitations for fraud. There are many of these, in my opinion. As I have said many times over, the devil is in the details. Senators need to read this bill. Senators need to look at the details and understand how it would work, or more accurately how it would not work in practice, because this is not just an esoteric debate on the Senate floor. This would be law which would be put into practice, and we need to think about the hard nuts-and-bolts issues of how this would work or how it would not work in practice.

Unfortunately, I believe these loopholes, these invitations to fraud, and these other detail problems are numerous in the bill. My amendment, No. 3964, simply highlights and hopefully will correct, if adopted, a couple of these specific provisions. These are among the most important invitations for fraud and problems. In particular, there are glaring loopholes contained in section 601 of the bill.

We have heard over and over how this bill does not contain amnesty. It is not amnesty, the proponents say. And one of the reasons they say that illegal aliens are put into different categories is according to how many years they have been in the country. They are treated differently according to how many years they have been in the country. President Bush made this point on Monday night specifically, that folks should be treated differently if they have been in the country for many years, if they have put down roots, if they have family here, et cetera, versus if they have just come into the country and have been here a clearly shorter period of time. That is a reasonable argument.

The problem is, when you look at the details of the bill, when you actually read the bill, again the devil is in the details. The details of this bill make a mockery of that distinction. Why do I say that? It is because under the provisions of the bill that say how an illegal alien may prove how long he has been in the country, there are many different types of proof which are acceptable—certain documents, certain sworn affidavits from employers, certain records. But another form of acceptable proof is nothing more than a statement by that illegal alien himself, signed by that person, a piece of paper saying: I have been in the country some years, under these circumstances; here is my signature.

Again, for this to be an acceptable method of proof to put an illegal alien in the best category that offers the best track to citizenship, a program I would absolutely characterize as amnesty, obviously means that these distinctions, depending on how long you have been in the country, are meaningless. In practice, all a person has to do to put himself in the best category, the most lucrative category that will lead to this amnesty, is to sign a piece of paper saying it is so. That is an enormous invitation to fraud. That is a huge loophole which will make all of the related provisions of this bill completely unworkable.

There are other aspects of the bill that are similar. There are other distinctions between having been in the country 2 years, less than 2 years versus between 2 and 5 years. Again, the devil is in the details. When one looks at the proof required for these various categories, again a simple affidavit signed by any third party is acceptable in that case. Again, that makes the whole system unenforceable. That makes all of these distinctions meaningless and, in fact, ridiculous.

We need to close these loopholes. We need to require more significant proof and documentary evidence than a simple affidavit signed either by the illegal alien himself or any third person. That is what my amendment would correct. If a Senator wants to be half serious about making this work, if a Senator wants to put any meaning behind his or her words in favor of enforcement, clearly we need to fix these glaring deficiencies in the bill.

In summary, my amendment would close just some of the loopholes in section 602 of the underlying bill. These loopholes would not only allow fraud but create incentives for illegal aliens to commit fraud.

My amendment would strike the language allowing an alien to prove employment history by providing a self-signed sworn declaration—nothing more than a piece of paper with the illegal alien's own signature.

My amendment would require that sworn affidavits from nonrelatives who have direct knowledge of the alien's work be corroborated by the Secretary of the Department of Homeland Security and include contact information of the affiant, the nature and duration of the relationship, his name and address, and the phone number of the affiant's relationship. In other words, these types of affidavits can at least be checked. At least the Secretary of the Department of Homeland Security and his personnel can put some rigor into the process to see if these statements by third persons are true.

My amendment would make the types of other documents provided to prove work history the same for those illegal aliens who have been living in the United States for over 5 years and those who have been here between 2 and 5 years, bringing some more rigor, some more demand for objective evidence into the enforcement mechanism.

My amendment would clarify that the alien has the burden of proving his or her employment history by a preponderance of the evidence.

Again, I am very fearful that the Senate is doing on this matter what we do all too often. We have these debates. We get very involved in words and arguments. Yet we ignore where the rubber really hits the road—the details, the practicality of enforcement: is this system really going to work? Are these promises really going to be borne out to the American people? The devil is in the details. We need to have a system that is workable.

We have lived this history before. The 1986 experience was an utter failure because the enforcement mechanism was completely unworkable. Are we going to repeat that history or are we going to have enforcement that is workable, that is meaningful?

If we are going to make these distinctions, they have to be able to be meaningful in practice. If an illegal alien can put himself in the best category on that path to amnesty versus the category in which he truly belongs based on the number of years he has truly been in the country, then all of these promises by the proponents of the bill are utterly meaningless and the enforcement mechanism will be utterly unworkable. We need to fix these sorts of glaring loopholes and invitations to fraud in the bill.

Let me not oversell my amendment. My amendment does not fix all of those loopholes, it does not close down all of those outright invitations to fraud, but it does address two of the most important, two of the most serious. I invite all Senators on both sides of this debate to come together to pass this amendment.

Again, I think this is one of these gut-check amendments. This is one of the basic threshold test amendments, like the security fence amendment was. If a Senator isn't willing to close this sort out of outrageous loophole, then that Senator, in my opinion, is not serious in the least about making enforcement work. This is an absolute minimum to begin closing these serious loopholes.

I look forward to coming back to this amendment tomorrow when I will be able to present it formally on the floor and have the entire Senate take it up. I look forward to Senators from both sides of the aisle—in fact, both sides of this debate—coming together in support of my amendment because it is a basic gut-check amendment. It is an absolute minimum that needs to be done to begin to close these outrageous loopholes and invitations to fraud in the bill.

Mr. LEAHY. Mr. President, I oppose the Cornyn amendment because I believe it undermines the careful balance between American workers and business that is contained in the bill.

The Comprehensive Immigration Reform Act, S. 2611, allows guest workers under the new H–2C visa to work initially on a temporary visa and to apply later for a green card if their work is needed over a long period of time. Under the program, after 1-year the employer of the immigrant guest worker could petition for a green card. Alternatively, after 4-years the immigrant guest worker could petition on his or her own for permanent resident status.

The Cornyn amendment would strike the right of immigrant guest workers to self-petition. This is a dangerous proposal. One of the reasons that guest worker programs have failed in the past is that prior programs did not provide labor rights to the temporary workers. By placing the rights of petition exclusively in the hands of employers, unscrupulous actors have the ability to manipulate or abuse workers by controlling the workers' access to legal immigration status.

The bill before us is a compromise package that seeks to balance the rights of American business and labor, and that enhances our economy and national security by bringing illegal workers out the shadows. The balance depends in part on treating all workers equally, including giving immigrant workers the same labor rights that are available to U.S. citizens. If all workers possess the same rights, then employers cannot depress wages by preying on illegal workers, or workers whose status is held hostage by their employers. The business community understands this issue and therefore the Essential Worker Coalition, a broad coalition of employers and associations calling for comprehensive immigration reform, is opposed to the Cornyn amendment.

Under the bill, immigrants who decide to self-petition will have to meet all of the other requirements for a green card. In the new guest worker program, these requirements include a work requirement, passing security and background checks, demonstrating that the immigrant is learning English and civics, and undergoing medical exams.

The self-petition provision in the bill is not a backdoor or a short cut to citizenship. It should not be stricken by the Cornyn amendment.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask consent that the vote in relation to the Cornyn amendment occur at 6 o'clock this evening; provided further that the amendment be temporarily set aside to allow Senator INHOFE to offer an amendment; and finally, I ask consent that Senator CORNYN be recognized for up to 2 minutes on his amendment prior to the vote.

Mr. CONRAD. Reserving the right to object, I am not the manager of this bill, but I have been called into service because the manager on our side is not immediately available. I apologize for that.

Senator KENNEDY's staff informs me apparently Senator LIEBERMAN will not go forward with his amendment and Senator KENNEDY would like to have an amendment on our side before we go back to the other side. Perhaps that can be worked out with the managers.

At this point, I am constrained to object to setting the amendment aside.

Mr. SPECTER. In light of that objection, perhaps we can start with some discussion by Senator INHOFE in the absence of setting aside the amendment and having him lay down the amendment so we do not waste more time.

I ask consent the vote be set at 6 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. If I could ask the acting majority leader a question, it is my understanding the Lieberman amendment that was to be the Democratic amendment between the two Republicans amendments is now not going to be offered, at least at this time; that being the case, would the Senator object to setting the current amendment aside for me to bring mine up for consideration? Is this what the Senator is objecting to?

Mr. CONRAD. Yes, the Senator is correct. I apologize to the Senator. I'm not the manager of this bill. I am simply standing in for the manager of the bill on our side who is not available at this moment. That is what I have been asked to do on behalf of the manager.

Mr. INHOFE. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. KENNEDY. The Kennedy amendment you are talking about putting up now, would that be considered next after this vote takes place on the Cornyn amendment?

Mr. CONRAD. That is my understanding.

Mr. INHOFE. Is there any time that has been scheduled for his amendment?

Mr. CONRAD. Not that I know of.

I apologize to the Senator. We are in this bit of a situation where we have to have a manager of our bill here before those agreements can be made.

The PRESIDING OFFICER. The Senator from Oklahoma is currently recognized.

Mr. SPECTER. Mr. President, in an effort to not lose any more time, we had an amendment by Senator LIEBERMAN, which he decided not to offer. It is more time to discuss the rules as to whether that constitutes the Democratic amendment, but the suggestion has been made that the Democrats are be agreeable to setting aside the Cornyn amendment on the condition that a Democratic amendment will be considered before Senator INHOFE's amendment is considered further, but Senator INHOFE would be permitted to lay down his amendment and speak for a few minutes. Is that acceptable?

Mr. CONRAD. With that understanding, that is entirely acceptable on this side.

Mr. SPECTER. I ask consent for that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I would like to ask one more question. After the Cornyn amendment, we will go to the Kennedy amendment. I am locked in after that; is that our understanding?

Mr. CONRAD. It is the understanding of this Senator.

Mr. INHOFE. And this Senator.

It is our understanding, then, after we dispose of the Kennedy amendment, then we come to my amendment; is that correct?

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4064

Mr. INHOFE. I ask unanimous consent to set aside the current amendment and bring up amendment No. 4064.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself, Mr. BYRD, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, Mr. COBURN, Mr. BURNS, and Mr. BUNNING, proposes an amendment numbered 4064.

Mr. INHOFE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title 4 United States Code, to declare English as the national language of the United States and to promote the patriotic integration of prospective US citizens)

On page 295, line 22, strike ''the alien—'' and all that follows through page 296, line 5, and insert ''the alien meets the requirements of section 312.''.

On page 352, line 3, strike ''either—'' and all that follows through line 15, and insert ''meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).''.

On page 614, after line 5, insert the following:

**SEC. 766. ENGLISH AS NATIONAL LANGUAGE**

(a) IN GENERAL.—Title 4, United States Code, is ''amended by adding at the end the following:

**''CHAPTER 6—LANGUAGE OF THE GOVERNMENT**



**''§ 161. Declaration of official language**

''English is the national language of the United States.

**§ 162. Preserving and enhancing the role of the national language**

''The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than

English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end of the following:

''6. Language of the Government .... 161''.

**SEC. 767. REQUIREMENTS FOR NATURALIZATION.**

(a) FINDINGS.—The Senate makes the following findings:

a. Under United States law (8 U.S.C. 1423 (a)), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, demonstrate an understanding of the English language, United States history and Government, to become citizens of the United States.

b. The Department of Homeland Security is currently conducting a review of the testing process used to ensure prospective United States citizens demonstrate said knowledge of the English language and United States history and government for the purpose of redesigning said test.

(b) DEFINITIONS.—For purposes of this section only, the following words are defined:

(1) KEY DOCUMENTS.—The term ''key documents'' means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(2) KEY EVENTS.—The term ''key events'' means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(3) KEY IDEAS.—The term ''key ideas'' means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(4) KEY PERSONS.—The term ''key persons'' means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(c) GOALS FOR CITIZENSHIP TEST REDESIGN.—The Department of Homeland Security shall establish as goals of the testing process designed to comply with provisions of [8 U.S.C. 1423(a)] that prospective citizens:

a. Demonstrate a sufficient understanding of the English language for usage in everyday life;

b. Demonstrate an understanding of American common values and traditions, including the principles of the Constitution of the United States, the Pledge of Allegiance, respect for the flag of the United States, the National Anthem, and voting in public elections;

c. Demonstrate an understanding of the history of the United States, including the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States;

d. Demonstrate an attachment to the principles of the Constitution of the United States and the well-being and happiness of the people of the United States; and

e. Demonstrate an understanding of the rights and responsibilities of citizenship in the United States.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall implement changes to the testing process designed to ensure compliance with [8 U.S.C. 1423(a)] not later than January 1, 2008.

Mr. INHOFE. I know we will have a vote at 6 o'clock, so I will paraphrase a few things so everyone will know in advance what we are doing.

This is English as the national language amendment. We talked about it at length last night. It has been very popular and enjoyed the support of most of the Members in the Senate today.

We heard the other night when the President made his speech, among other things:

. . . an ability to speak and write the English language is very significant . . . English allows newcomers to go from picking crops to opening a grocery . . . from cleaning offices to running offices . . . from a life of low-paying jobs to a diploma, a career, and a home of their own.

He also said:

Every new citizen of the United States has an obligation to our customs and values, including liberty and civic responsibility, equality under God and tolerance for others and the English language.

I recall President Clinton standing on the floor and making the statement about the responsibility of new people coming into this country. He said:

. . . they have the responsibility to enter the mainstream of American life. That means learning English and learning about our democratic system of government.

Many others have been quoted, going all the way back to Teddy Roosevelt, that we must also learn one language. That language is English.

This has been aired quite a number of times. In 1997, Senator SHELBY offered the amendment and never got a vote on the amendment, but he did have a number of Democrats and Republicans as cosponsors of the amendment. We currently have Senators BYRD, BUNNING, BURNS, CHAMBLISS, COBURN, ENZI, and SESSIONS as cosponsors of this amendment, and we have not made an effort to get more cosponsors which we will do prior to bringing it up after the Kennedy amendment.

The time has come to go ahead and do it and quit talking about it. This time is now.

There has been a lot of polling data that shows that the vast majority of Americans, the most recent one being the Zogby poll only a couple of months ago, 84 percent of Americans want this as the language. Interestingly enough, when they segregate out the Latinos who responded to the polling, over 70 percent in many polls—which I will go over when there is more time—support this as our national language.

Mr. CONRAD. Will the Senator yield for a question, briefly?

Mr. INHOFE. Of course.

Mr. CONRAD. Could the Senator share with this Senator and colleagues, what is the upshot of the Senator's amendment? What is the force and effect that would be provided in law if the Senator's amendment were agreed to?

Mr. INHOFE. We would be joining 51 other countries that have English as their language; 27 States have used this language in the State legislature to make this their language.

Mr. CONRAD. Would it be that English would be the official language of the country?

Mr. INHOFE. The national language, yes.

Mr. CONRAD. Are there legal requirements as to how that would apply?

Mr. INHOFE. There are, yes. There are some.

First of all, there are some exceptions. Our language says ''except where otherwise provided in law.'' There are some exceptions. For example, before the Court Interpreters Act, passed in 1978, defendants did not have the right to an interpreter. It was up to the court's own discretion. In 1978, they said that they did. This has not changed that. This leaves that in place. We also have the bilingual ballots requirement, Voting Rights Act. That is not changed by this. Maybe it should be changed, but that should take special legislation that addresses the Voting Rights Act.

The national disaster emergency evacuation provides if you had something in California, for example, where there was a tsunami, you could use the Chinese language in Chinatown, in places where it is appropriate. It leaves those common sense things in place.

Mr. CONRAD. Could I say to the Senator, speaking for myself, I am very interested in his legislation. If he could provide a copy of that legislation and an interpretation to my office, I might well be a cosponsor of the Senator's legislation.

My family came here as immigrants from Scandinavia. The first thing they wanted to do was to learn English. My wife's family came here as immigrants from Italy. The first thing they wanted to do was learn English. I don't think we do people any favors by not having a requirement in place.

The PRESIDING OFFICER. Under the previous order, the time of 6 o'clock has arrived, and the Cornyn amendment is the matter before the Senate. It will be brought to a vote.

Mr. CONRAD. Mr. President, again, I thank the Senator.

Mr. INHOFE. Mr. President, I thank the Senator. I also would like to say, our family came from Germany, and that is the first thing they did, too.

AMENDMENT NO. 3965, AS MODIFIED

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak for 1 minute on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona is recognized for 1 minute.

Mr. MCCAIN. Mr. President, I wish to tell my colleagues that we had some

good-faith negotiations with Senator CORNYN. I am sorry I was unable to talk to him before this vote. I know he had a previous engagement down at the White House. But the Kennedy amendment will probably be a side-by-side since there are still areas of the Cornyn amendment we have difficulty agreeing to.

So I wish I could have talked with Senator CORNYN since I think our differences are minimal, but we still have not resolved them.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Cornyn amendment.

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. KOHL) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—50

| | | |
|---|---|---|
| Alexander | Dole | Nelson (NE) |
| Allard | Domenici | Roberts |
| Allen | Ensign | Santorum |
| Bennett | Enzi | Sessions |
| Bond | Frist | Shelby |
| Bunning | Grassley | Smith |
| Burns | Gregg | Snowe |
| Burr | Hagel | Stabenow |
| Byrd | Hatch | Stevens |
| Chambliss | Hutchison | Sununu |
| Coburn | Inhofe | Talent |
| Cochran | Isakson | Thomas |
| Coleman | Kyl | Thune |
| Collins | Lott | Vitter |
| Cornyn | Martinez | Voinovich |
| Crapo | McConnell | Warner |
| DeMint | Murkowski | |

NAYS—48

| | | |
|---|---|---|
| Akaka | Dorgan | Lincoln |
| Baucus | Durbin | Lugar |
| Bayh | Feingold | McCain |
| Biden | Feinstein | Menendez |
| Bingaman | Graham | Mikulski |
| Boxer | Harkin | Murray |
| Brownback | Inouye | Nelson (FL) |
| Cantwell | Jeffords | Obama |
| Carper | Johnson | Pryor |
| Chafee | Kennedy | Reed |
| Clinton | Kerry | Reid |
| Conrad | Landrieu | Salazar |
| Craig | Lautenberg | Sarbanes |
| Dayton | Leahy | Schumer |
| DeWine | Levin | Specter |
| Dodd | Lieberman | Wyden |

NOT VOTING—2

| | |
|---|---|
| Kohl | Rockefeller |

The amendment (No. 3965), as modified, was agreed to.

Mr. CORNYN. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, the Senate is coming in at 9 o'clock tomorrow, as I understand it. As soon as we go on the bill tomorrow, the first amendment will be offered by Senator KENNEDY. Then the second amendment will be offered by Senator INHOFE. The third will be offered by Senator AKAKA. The fourth will be offered by Senator ENSIGN. The fifth will be offered by Senator NELSON. The sixth will be offered by Senator VITTER. The seventh will be offered by Senator DURBIN. The eighth will be offered by Senator KYL. And then our next amendment, after a Democratic amendment, will be by Senator CHAMBLISS.

What we would like to do is have the Senators present promptly, and we would appreciate it if we get people down here about a half hour before their amendment comes up. We had some dead time today because we had nobody on deck. But we want to give people notice so we can proceed expeditiously. We have a great many amendments, and we want to move on them.

I ask unanimous consent that the time agreement on Senator KENNEDY's amendment be 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. So we will have an early vote tomorrow morning to get us started.

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING DR. KIRBY GODSEY

Mr. CHAMBLISS. Mr. President, I rise today to pay tribute to a man who has earned a place in Georgia history and, in my opinion, will be unmatched for many years to come. My good friend, Dr. Kirby Godsey, has served as the president of Mercer University since 1979. He is currently the longest serving university president, not only in Mercer history, but in Georgia history as well. He has presided over 250 graduation ceremonies. He will retire on the 30th day of June of this year.

Kirby Godsey has achieved so much, I simply don't know where to begin. He is the embodiment of a great educator, a dedicated community leader, public servant, spiritual advisor, problem solver, and the list goes on. His accomplishments are endless.

My wife Julianne and I have had the privilege of knowing Dr. Godsey for many years. In fact, my son Bo received his undergraduate and law degrees from Mercer University and Mercer Law School not too long ago. During my years in the Congress, I have always appreciated his expertise and knowledge on the issues that he has discussed with me during his visits to Washington, as well as in Macon, on many complex matters relevant to education and otherwise.

Dr. Godsey has been named three times among the top 100 most influential Georgians by Georgia Trend magazine for his commitment to quality education, to economic growth, and to the needs of Georgians. He has received this honor multiple times for good reason, his impact on the State is extensive.

During his presidency, Mercer University has become one of the leading and most comprehensive universities of its size in the Nation, with 10 schools and colleges. When Dr. Godsey became president of Mercer in 1979, the enrollment was 3,800, the budget was $21.3 million, and the endowment was $16.5 million. Back then, the university's economic impact on Georgia was more than $21 million. Today, Mercer's enrollment is more than 7,300; the budget is $175 million, and the endowment is close to $200 million, with more than $200 million expected to be received in the near future from planned gifts.

But if you ask Kirby Godsey about the legacy that he will leave behind with his upcoming retirement, he won't point to any of those things. To him, it is not about bricks and mortar and money. To Kirby, it is about the students, the graduates of Mercer University who are making the school a proud institution through their professions and service to others—and their contributions to the greater good.

To Kirby Godsey, service learning is a key priority. Mercer's reputation for scholastic excellence, rigorous academic programs, innovative teaching, and time-honored values has earned its designation in 2005 as a ''College with a Conscience'' by the Princeton Review and Campus Compact. For 16 consecutive years, Mercer has been recognized as one of the leading universities in the South by U.S. News & World Report.

Dr. Kirby Godsey is a workhorse, and I will share a few examples. When Middle Georgia leaders asked him to establish a medical school, he traveled throughout the State, talking with community and State leaders and developing vital partnerships. Accepting only Georgia residents in its doctor of medicine program, Mercer School of Medicine opened in 1982 with a mission to educate more physicians to serve Georgians.

Today, Mercer graduates practice in 112 towns and cities and 87 counties in Georgia and handle more than 1.3 million patient visits each year. Instead of developing a separate teaching hospital, Dr. Godsey developed strong partnerships with the Medical Center of Central Georgia in Macon and Memorial Health University Medical Center in Savannah. Those partnerships have enabled Macon and Savannah to become major hubs of health care services in Georgia.

He has established a Center for Health & Learning in partnership with Piedmont Healthcare in Atlanta. And with the increasing shortages of pharmacists, nurses, and educators nationwide, Dr. Godsey has worked to ensure that Mercer addresses these critical needs through undergraduate and graduate programs.

In the early 1980s, Middle Georgia's economic engine, Robins Air Force Base, struggled to find enough engineers, endangering its continuing operations. So the base commander turned to Dr. Godsey for a solution. In 1985, Mercer opened the school of engineering on the Macon campus and the Mercer Engineering Research Center in Warner Robins. More than 62 percent of Mercer engineering graduates work in Georgia, and the university is the No. 1 provider of engineers to Robins Air Force Base. The Mercer Engineering Research Center that the university established in Warner Robins has exceeded more than $189 million in contract revenue in research.

Dr. Godsey happened to be in my office today, and he advised me that he has now secured the full funding for a new engineering building to be located on the Mercer campus in Macon. It is a building we have helped contribute to at the Federal level. He has also gotten State funding. But the overwhelming amount of money needed to construct this facility was contributed by private individuals around our State and around the country.

It has been a privilege to work with Dr. Godsey over the years, and we have worked to secure funding for a program that is vital to Warner Robins Air Logistics Center, the Critical Personnel Development Program. The centerpiece of this educational partnership between Robins and Mercer's Macon campus is to provide a state-of-the-art facility for academic training and laboratory research in support of the Logistics Center's mission requirements. In addition, it will create regional economic development opportunities, and we all know how critical that is. I am pleased, as I said, that Mercer University has now secured this vital funding and is finalizing this project. As this project becomes a true reality, we will all be able to recall Dr. Godsey's hard work on this effort.

There is no question, Kirby Godsey has been a strong advocate for his community. Under his leadership, the Mercer Center for Community Development, which promotes stronger community ties by working to socially and economically revitalize neighborhoods around the school, received the Jimmy and Rosalyn Carter Campus-Community Partnership Award in 2002.

He has served as chairman of New Town Macon since its beginning in 1996 and has worked hard to revitalize the downtown area in Macon, Georgia. Incidentally, my Middle Georgia Senate office is located there, and I can say without question, the revitalization efforts have been incredible. In 2003, Dr. Godsey was named the Citizen of the Year by the Greater Macon Chamber of Commerce and presented him with its highest honor, the prestigious Meritorious Service Award.

He has also been recognized for influencing the quality of education across the Southeast as a leader with the Southern Association of Colleges and Schools. In 2002, the Council for the Advancement and Support of Education recognized him as the Southeast's CEO of the year. It is also fitting that in 2006, the Georgia Legislature honored him at the State capitol for his many accomplishments during his 27-year presidency.

Kirby Godsey is an inspirational leader whose dedication to Mercer University has enabled great advancements in our community, our State, and our Nation. He is a good friend and a true hero to the State of Georgia. I ask the Members of the Senate to join me in paying tribute to this great Georgian, this great American, and a great friend of this Member of the Senate—Kirby Godsey.

## MORNING BUSINESS

### TRIBUTE TO FORMER CONGRESSMAN SONNY MONTGOMERY

Mr. HAGEL. Mr. President, I rise this afternoon to pay tribute to a former friend and colleague, one who contributed mightily to this great Nation over many years. Yesterday, in Meridian, MS, the former chairman of the House Veterans' Committee, Congressman Sonny Montgomery, was laid to rest. Two of our colleagues in this body, Senators COCHRAN and LOTT, were in attendance and spoke at Chairman Montgomery's funeral. Senators COCHRAN and LOTT were very close to Congressman Montgomery. They were Members in the House together for many years.

I had the privilege of knowing Sonny Montgomery for over 35 years. He was one of those unique public servants whom all who knew him, liked him, respected him.

He contributed to this country every day. He was a Democrat from Mississippi. He was proud of that fact. He never ran from it. He knew who he was, and he believed in things. But he always brought a sense of purpose, he brought a sense of importance, he brought a sense of bipartisanship, dignity, tolerance, and respect to the body and the institution he served.

At a time in American politics when we are lacking those graces, we look to people such as Sonny Montgomery and recall the impact he had on the Congress of the United States, how he brought people together. He formed a consensus of purpose. There were differences—there should be differences—but he was anchored with the belief first in his country, second in his responsibilities as a Member of Congress, and third in his party. He always represented his district, his State, and his country with great dignity.

Sonny Montgomery was a World War II veteran and a Korean war veteran. He became an Army National Guard general and served as chairman of the House Committee on Veterans' Affairs for 13 years.

There are many personal stories about Sonny Montgomery. One that is legend in Washington is his close, almost brotherly, relationship with the first President Bush. The first President Bush was elected to Congress on the same day Sonny Montgomery was elected—a Republican from Texas, a Democrat from Mississippi—in 1966. They became very close friends. As a matter of fact, Barbara Bush spoke yesterday at Sonny Montgomery's funeral.

That is but one example of the affection and respect that all who knew Sonny Montgomery had for him. Here is a man who led legislation that increased veterans eligibility for home loans, veterans life insurance, increased medical coverage for veterans, and he was the sponsor of a law that made the Veterans' Administration the 14th Cabinet department of our Government in 1988.

I had the privilege of serving with President Reagan as President Reagan's first Deputy Administrator of the Veterans' Administration, so I worked closely with Sonny Montgomery.

On a personal note, I met my wife Lilibet in 1982 when she was working for Sonny Montgomery. Lilibet is from Meridian, MS. That is where Sonny Montgomery was born 86 years ago. That is how Lilibet got a job on Capitol Hill, and that is how I met her.

It is those kinds of personal stories that are by the hundreds, people who somehow Sonny Montgomery was close to and had some responsibility for connecting. His reach was long, and it is appropriate that not only we recognize him but remember him and thank him, but again, as I said earlier, at a time when our country is divided in a very dangerous way—and that is reflected to a great extent in the Congress of the United States—there are those to whom we can reach back to inspire us to greater heights, to expect more from ourselves, and do more for our country, if we would take the Sonny Montgomery model of service to his country and service to those he had the privilege of leading.

I appreciate very much the opportunity to make these remarks about a dear friend, one we will all miss, especially those who had the opportunity to serve with him in some capacity over his glorious 30 years in the Congress of the United States.

Mr. President, I yield the floor.

### CELEBRATING THE TENTH ANNIVERSARY OF TOYOTA MOTOR MANUFACTURING, INDIANA

Mr. LUGAR. Mr. President, I am pleased to rise today to celebrate the

10th anniversary of the founding of Toyota Motor Manufacturing, Indiana, TMMI, and their operation of the state-of-the-art production facility in Princeton, IN. The continuing success of TMMI and the nearly 5,000 team members at the facility demonstrate the remarkable capabilities of many Hoosiers as they work together as innovators and leaders of the automotive industry in Indiana, the United States, and abroad.

In addition to TMMI important leadership in the automotive industry, the company's more than $2.6 billion investment in Princeton and surrounding communities has been an important engine of economic growth and development in southwestern Indiana. A study by the University of Evansville concluded that TMMI's production in Princeton has created 8,865 jobs in Gibson County, 12,990 in the Evansville metropolitan area, and 31,385 across the State of Indiana. TMMI's investment has resulted in more than $5.5 billion in business sales. This economic activity has strengthened communities and improved lives across the State.

I am also pleased that TMMI's dedication to the State of Indiana will be growing in the coming years. In March, I had the privilege of sharing with my fellow Hoosiers news that Toyota will begin production of the Camry in Lafayette. It is expected that this venture will create an additional 1,000 jobs in Indiana. This decision signals a recognition by Toyota that the highly skilled Hoosier workforce and attractive business climate in Indiana will allow them to achieve their goals in the coming years.

I am hopeful that you will join me in congratulating Toyota Motor Manufacturing, Indiana, and in wishing them many years of success and leadership in Indiana.

## TOYOTA MOTOR COMPANY

Mr. BUNNING. Mr. President, today I rise to extend my heartfelt congratulations to the Toyota Motor Company for their 20 years of successful and prosperous operations in Georgetown, KY. This stunning achievement serves as a shining example to us all in regards to leadership and innovation in the American workforce.

Since coming to Kentucky in 1986, Toyota has provided our State with thousands of job opportunities while giving the employees the ability to contribute ideas for product improvement, oversee quality control, and continually strive for perfection. This strive has resulted in the Toyota Camry being named the most popular car on the American automotive market eight times out of the last 9 years.

With three locations in Kentucky, the Georgetown manufacturing plant, the North American Parts Center—Kentucky, and the company's largest North American manufacturing headquarters in Erlanger, KY, it is easy to see the economic benefits that Toyota has brought to our State. The Georgetown plant alone employs over 7,000 team members and has generated over 34,000 jobs in Kentucky and nearly 100,000 jobs across the United States. So often we hear about jobs being lost to overseas firms, but in Kentucky we are fortunate the Toyota jobs came to us. This partnership has benefited Toyota and Kentucky, and I know both parties will reap the benefits for years to come.

Today, the Georgetown production facility is Toyota's largest production plant in North America. Kentucky's dedicated skilled production team has been key to Toyota's success.

Toyota has proven its commitment to Kentucky by supporting the interests of the Commonwealth and giving back to our State in so many ways. By contributing to education, the arts, local business leadership organizations, and supporting women's rights, this company has proven time and again the importance of a strong business and community partnership.

Words cannot express the generosity that Toyota has shown Kentucky through industry job opportunities and community service. I am excited to see what this partnership will bring to Kentuckians and generations to come. Once again, I want to congratulate the Toyota Georgetown facility and its employees on 20 years of success. I also want to thank them for all they have given to our State.

## EXTENDING THE WESTERN HEMISPHERE TRAVEL INITIATIVE DEADLINE

Mr. LEVIN. Mr. President, as my colleagues know, the Western Hemisphere Travel Initiative, WHTI, currently requires anyone entering the United States via a U.S.-Canadian land border to have a passport or other acceptable alternative document by January 1, 2008. I am pleased to join my colleagues from Alaska and Vermont as a cosponsor of their amendment to extend the WHTI implementation deadline by 18 months to June 1, 2009.

The WHTI will play an important role in securing our borders, but it must be implemented in a reasonable, fair, and well-thought-out manner. This amendment responds to concerns I have heard from various constituents, including those in the travel, tourism, and shipping industries.

My home State of Michigan, like other northern border States, enjoys a close economic and social relationship with Canada. It is important that the WHTI be implemented in a way that minimizes negative impacts on trade, travel, and tourism.

We must ensure that our border crossings are both secure and efficient. This amendment would provide additional time for the Departments of State and Homeland Security to study the various implementation issues related to the WHTI. This delay would enable a more in-depth examination of issues including the economic impact of the WHTI, the civil liberties and security concerns related to new passport technologies, and the feasibility of creating a single border crossing identification card that will satisfy the requirements of both the WHTI and the REAL ID Act.

I urge my colleagues to support this amendment.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On May 16, 2006, a 20-year-old Washington, DC, lesbian died after being shot in the head in what appears to have been a hate crime.

Crystal Smith died shortly before midnight when two unidentified men opened fire on her while standing on a street corner in Southeast Washington, DC. According to reports, the police department's Gay and Lesbian Liaison Unit is assisting in the investigation. The fact that Smith was shot in the head makes it appear more likely that she was targeted.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

## TAX RECONCILIATION

• Mr. ROCKEFELLER. Mr. President, I regret that rehabilitation following back surgery prevented me from being on the floor to cast my vote against the tax reconciliation package which the Senate narrowly approved on May 11. Today President Bush will sign that bill into law, and I would like to take this opportunity to share my thoughts with my constituents and my colleagues. I am extremely disturbed by the Nation's fiscal mismanagement over the past several years, and this new tax cut bill was another disappointing step in the wrong direction.

On February 2, I voted for the Senate's version of the tax reconciliation bill. That legislation protected middle-class taxpayers from the alternative minimum tax and extended some widely supported tax provisions that recently expired. The Senate bill also included urgently needed incentives for

investment in mine safety equipment and technology. I was pleased to support that bill.

Unfortunately, as I feared, during negotiations with the House, the reasonable compromise struck in the Senate was abandoned. The final tax package that the conference committee produced has the wrong priorities and will make America's fiscal situation substantially worse.

Middle-class relief from the alternative minimum tax expired at the end of last year. The conference report extends AMT relief through 2006 but does nothing about next year when millions of families will face an enormous tax increase. Additionally, the bill does not include the tax provisions, which I have long supported, that help average West Virginians. Tax cuts which benefit families paying college tuition, schoolteachers buying supplies, and businesses investing in research and development were simply not included in this bill. These provisions have already expired, meaning taxpayers will be hit with higher taxes this year. I recognize that the Senate majority leader has indicated his intention to address these issues later this year, and I will continue to advocate for extension of these important provisions. However, I believe it is irresponsible not to make tax cuts for middle-class families our top priority.

Instead of addressing these urgent priorities, the bill acts to extend tax cuts for investors that were not even set to expire until 2009. I cannot understand why tax cuts that primarily benefit taxpayers with more than $200,000 in income would get a higher priority than tax relief for middle-class families. Unfortunately, in West Virginia, very few taxpayers have been able to benefit from the investor tax cuts enacted in 2003. Fewer than 17 percent of taxpayers reported any dividend income, and fewer than 11 percent of our taxpayers had any capital gains subject to tax.

I am also extremely disturbed by the budget gimmicks used in order to comply with the Senate's rules designed to impose fiscal discipline. By taking advantage of unusual revenue effects, this bill amazingly pays for tax cuts with yet more tax cuts. But without question, we are digging ourselves deeper in debt with such games. In the long run, this bill will cost us even more than the $70 billion its sponsors claim. And because so many important issues have been left unaddressed, Congress will need to enact additional tax cuts this year. This fiscal mismanagement increases our borrowing from foreign nations and increases the burden on our future generations.

Finally, I would like to mention the 18 miners in West Virginia, as well as those in other States, who lost their lives this year and their devastated families, friends, and communities. I am deeply disappointed that this agreement does not include the bipartisan mine safety amendment, which I worked so hard to include in the Senate bill. That amendment would have encouraged mine companies to invest in additional mine safety equipment and training and, most importantly, would have saved lives. This is a provision which cannot wait, and I will continue to push to have this provision enacted. The well-being and safety of miners demands it. •

## SMALL BUSINESS RELIEF

Mr. BURNS. Mr. President, in 2002 Congress passed the Sarbanes-Oxley Act, providing important safeguards against unscrupulous accounting practices. In the wake of significant corporate accounting scandals, Congress created the Public Company Accounting Oversight Board overseen by the Securities and Exchange Commission. It restricted the actions of accounting firms who perform audits—specifically preventing them from undertaking other activities which lead to conflicts of interest. At the end of the day, this legislation is important to protect shareholders and employees from dishonest accounting practices that can cost them their futures and, in extreme cases, even their businesses.

Section 404 of Sarbanes-Oxley requires the Commission to create rules for annual reports and to prescribe internal control reports to ensure that financial reporting is accurate and ethical. The goals of this provision are warranted but the burden on smaller publicly held companies has come at a great cost.

Unfortunately, they are also incredibly and unnecessarily burdensome for small- and medium-sized businesses. In my State of Montana, it is these small- and medium-sized businesses that fuel the engine of our economy. Small businesses are collectively the largest employer in Montana, and it has always been important to me that the Federal Government consider the impact its regulatory policies have on small businesses.

For this reason, I am proud to be added as an original cosponsor of legislation that will reduce some of the burden facing small businesses, specifically in section 404. S. 2824, the Competitive and Open Markets that Protect and Enhance Treatment of Entrepreneurs Act, or COMPETE Act, will not remove the important safeguards that Sarbanes-Oxley created, but it will increase the flexibility of the law to allow businesses to comply with the law with less hardship.

In 2004, the average cost for a public company to be public was $3.4 million. One out of every three dollars spent were for audits performed even if there was little or no value of those audits to the investors. It defies common sense to have the same requirements for the largest public companies as we do for the smallest, and the COMPETE Act will offer small- and medium-sized companies the option to comply with standard internal control guidelines with enhanced internal controls, greater transparency, and specific restrictions against conflicts of interest.

One of the things I have learned here in Washington, DC, is that one-size-fits-all solutions don't work. American innovation is too diverse to encompass through inflexible regulations. When we passed Sarbanes-Oxley, our intentions were to protect investors and employees from the minority of companies that abused accounting practices to mislead their shareholders. This intention remains important, but in the past years I have heard from Montanans about the unforeseen and unintended consequences of this legislation. The COMPETE Act can sort these out, keeping the goals of Sarbanes-Oxley intact, while increasing the flexibility needed to make the regulation as harmless as possible to honest businesses.

## COMMENDING THE USTR

Mr. BROWNBACK. Mr. President, I rise today because, as you may know, for several years now there have been ongoing negotiations between the State of Israel and the Office of the United States Trade Representative, USTR, regarding Israel's protections of U.S. intellectual property rights. I commend the USTR for so vigorously protecting these very valuable assets to the U.S. economy. However, what has caused my colleagues and I concern has been the treatment of Israel in this process; a process that we hope will become more transparent. This year, I was joined by Senators SCHUMER and WYDEN on a letter to the U.S. Trade Representative expressing our hope that the positive steps Israel has taken, particularly in the context of how many of our other trading partners have acted, would be granted the recognition it deserves. Unfortunately, when this year's Special 301 report was released, Israel was put on par with countries such as China and Russia while other countries, which have little or no intellectual property protections, were given a much less egregious designation.

Ron Dermer, the Israel Embassy's Minister for Economic Affairs, recently stated that ''countries with a record of much more severe breaches of intellectual property than those attributed to Israel, are not included in these lists.''

I do look forward to continuing our work with the Office of the USTR on this issue and to make sure that those countries that are working towards our mutual goals are met with the recognition and support from our government they deserve.

## AMERICAN UNIVERSITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have printed in the RECORD my correspondence with American University, AU. AU is a federally chartered nonprofit, tax-exempt educational organization.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, DC, May 17,2006.*

GARY M. ABRAMSON,
*Chair of the Board, American University.*
THOMAS GOTTSCHALK,
*Vice Chair of the Board, American University, Washington, DC.*

DEAR MR. ABRAMSON AND MR. GOTTSCHALK: I am writing to you regarding the Finance Committee's review of governance issues at American University (''AU''). AU is a federally chartered non-profit, tax-exempt educational organization. Congress enacted the law in 1893 that first incorporated AU, appointed its initial individual corporate members, and specified the size and composition of its board of trustees. Act of Feb. 24, 1893, ch. 160. In 1953, Congress enacted legislation, altering, among other things, the process by which the AU board of trustees is elected. Act of Aug. 1, 1953, Pub. L. No. 183, ch. 309. The Finance Committee's review is predicated on this unique history of the legislative relationship between the federal government and AU as a congressionally chartered institution, as well as on the Committee's general legislative and oversight jurisdiction over tax-exempt charitable organizations.

In conducting its governance review, the Finance Committee has reviewed the numerous documents provided by AU and material provided by other sources, as well as discussions with current and former board members, faculty, students and AU employees. In addition, I have heard concerns raised by AU students from Iowa and their parents. To allow students, faculty and staff, and the public to have a better understanding of the governance issues still facing AU, I am today releasing relevant material provided to the Finance Committee. It says volumes about problems of AU governance that students, faculty, and supporters often have to learn about the work of the AU board from the U.S. Senate Finance Committee rather than from the board itself. I understand that governance changes are to be proposed that proponents claim will ensure that there will be greater openness and transparency at AU. I look forward to meaningful reform in this area and expect to be informed of the details of those proposals.

While I am releasing quite a bit of information today, I am frustrated that there is certain key material that I cannot release today. When the Committee began this investigation on October 27, 2005, I received assurances of cooperation. The Washington Post stated on October 28, 2005, ''Gottschalk said yesterday that the board would do everything it could to cooperate.'' Unfortunately, those words have not always been met by deeds. While AU has over time provided material requested, AU continues to redact material provided and most frustratingly labels key documents' 'confidential' and not to be released to the public. This is not what I would expect from a university that benefits from tax-exempt status and was chartered by act of Congress. I call on you to hold to your public commitments of full cooperation and allow for public release of all documents without redaction that have been requested. AU students, faculty and supporters have a right to a full understanding of the board's actions.

One of my principal governance concerns relates to the legal structure and composition of the AU board. The Finance Committee, during its roundtable discussion on charitable governance, heard from AU student leaders, faculty, and former board members, a number of whom called for the removal of certain AU board members—particularly focusing on members serving on the ad hoc committee that took actions regarding former AU president Dr. Ladner without the knowledge of key board members.

In reviewing the material, I understand the views of those who believe the members of the ad hoc committee should be removed. In the course of our review, I have also focused on several key votes by some AU board members. In particular, given all related information reviewed by the Finance Committee, I am seriously troubled by votes cast in October 2005: 1) to amend the audit committee's recommendation and secondly to reject the audit committee's recommendations on a vote for reconsideration; 2) to reject three identical recommendations from counsel, including Manatt Phelps as well as Arnold & Porter, that had concluded that Dr. Ladner's 1997 employment agreement was invalid; 3) not to terminate Dr. Ladner for cause; and 4) to increase cash severance to Dr. Ladner by an additional $800,000 over eight years—after the board had already voted to increase Dr. Ladner's cash severance by $950,000.

It is important to bear in mind that these votes were made after the findings from protiviti independent risk consulting reports, which I am releasing today; were known to the board and that provided in detail the expenses of Dr. Ladner and his wife that he charged to AU. The report shows expenses that would make for a good episode of 'Lifestyles of the Rich and Famous'—a lifestyle paid for by AU students and their parents. In addition, as noted above, the board members were aware of the findings of two respected law firms that found that Dr. Ladner's 1997 employment agreement was invalid.

While I fully understand that as Chairman of the Senate Finance Committee, I'm not here to direct the management of the affairs of AU or its board, I do want you to know that I am considering proposing federal legislation that would require changes in the structure, composition, and governance of the AU board, as Congress has done previously. In particular, in discussions with Finance staff, AU board members have noted that they do not view that under current federal law the AU board has the authority to compel a board member to resign. Please confirm if that is accurate, and please also provide your views about the wisdom of Congress amending the law to provide the AU board such authority and, if so, suggested changes to the law.

In addition, I want to draw your specific attention to a board meeting that discussed Mr. Ladner's compensation package. In general, under federal tax laws, outside review and justification for the salary of a highly compensated individual at a public charity provides a safe harbor from penalties under Section 4958 of the Internal Revenue Code. My review of tax-exempt organizations and corporations has found that in the overwhelming number of cases outside consultants provide a justification for the salary request that is being considered. In fact, the AU situation is the only example Finance Committee staff have seen of an outside consultant stating that a salary of an individual at a public charity is too high.

However, in calling for a salary for Dr. Ladner higher than that recommended by outside consultants, some AU board members appear to have rejected concerns about complying with the laws passed by Congress and instead described financial penalties for violating federal law as 'de minimis.' Comments that suggest that federal laws should be disregarded because penalties are 'de minimis' are stunning when I hear them from members of for-profit corporate boards; they are shocking when they come from board members of a tax-exempt university. Do you believe this is the appropriate message AU should send to students—it is all right to violate the law if the penalty is de minimis? Please provide a complete explanation of these events and your views of them, as well as all related material.

The issue of whistleblower protection at non-profit institutions has also been of great concern to me in the course of the Committee's work. Whistleblowers in certain situations are protected from retaliation under state and federal law. A series of aggressive emails to other AU board members by one AU board member appear to attack whistleblowers trying to do the right thing regarding the situation at AU. They include the following language: ''You are right in citing a Nixon era example. People do not tolerate leaks any more. No one is so naive anymore to think that unidentified 'whistleblowers' are public servants. You are right in saying there always must be a process for people to report wrongdoing but this is not the way.''

As a champion of whistleblowers in Congress for years, I can state categorically that not only are whistleblowers public servants, they are often heroes—saving lives and taxpayers billions. I commend you, Mr. Gottschalk, and former board chair Ms. Bains, for taking a strong line against any effort to bring the Salem witchcraft trials to northwest DC. But again, that a board member might propose retribution against whistleblowers, as appears from some of these emails.is inexcusable. I would appreciate your general views on the benefit of whistleblower protection at tax-exempt organizations, as well as your specific views on the series of emails appearing to support aggressive efforts to search, find, and punish those who try to speak out against what is wrong. In particular, do you believe such efforts send the appropriate message to AU students—especially given that a large number of AU graduates will be employed in public service?

Finally, let me return to the overall issue of governance. In meetings with my staff, AU representatives have given assurances that AU will have in place governance reforms that will provide students and faculty a meaningful and substantive voice at AU. I view this as a vital part of AU governance reforms coupled with greater sunshine and transparency that I mentioned at the beginning of my letter. Please inform me in detail what the governance reforms are as to students and faculty.

Given that Congress is currently considering reforms to provisions of the tax code affecting charities as part of the conference on the pension bill, I ask that you provide answers to this letter within 10 working days. Thank you for your time and courtesy.

Cordially yours,

CHARLES E. GRASSLEY,
*Chairman.*

## HONORING THE INDY RACING LEAGUE

Mr. BAYH. Mr. President, I rise today to applaud the Indy Racing League, IRL, for its decision to use ethanol in its race cars and the impact that decision has had on efforts to inform Americans about this important alternative fuel. Since 1911, Indiana has been the center of the autoracing world, setting the standard in racing for drivers and fans alike. And now, the Indy Racing League is setting a new standard, this time for greater energy independence.

This year all of the IndyCars will race on a 10-percent ethanol blend before switching to a 100-percent ethanol fuel next year. With this change, the corn harvested on farms across the country will power the fastest cars in the world.

The ethanol that will power its race cars will deliver the same high-performance capabilities that drivers rely on, only without harmful air pollution. It also represents an important step toward reducing America's dependence on foreign oil, by providing a renewable energy source grown in our own fields. By tapping the energy potential of America's farm fields, we can ensure a reliable domestic energy supply to meet our Nation's needs while ending our reliance on unstable countries such as Saudia Arabia, Russia, and Venezuela for their oil and creating thousands of jobs for Hoosier farmers.

Every Memorial Day weekend, millions of Americans and sports fans from around the world watch the Indy 500. But this year, when they tune in to see who wins the Brickyard, they will also be watching the future of American energy unfold at 220 miles per hour.

With its decision to use ethanol as the fuel for the IndyCar series, the IRL is leading the way to encourage greater public use of renewable fuels. After all, if a high-performance vehicle can win the Brickyard running on ethanol, then surely ethanol is good enough for the family minivan, too.

I have introduced a bipartisan bill that will promote the use of ethanol and other biofuels, and I will continue to support efforts to find new ways to use ethanol in the future. I applaud the Indy Racing League for leading the way in this effort and, along with thousands of other Hoosiers, look forward to this year's ethanol-powered races.

## AMERICAN LEGION POST 51 OF EAST POINT, GA

Mr. ISAKSON. Mr. President, I rise today to recognize in the RECORD American Legion Post 51 of East Point, GA, for its unselfish efforts on behalf of our brave soldiers serving in Iraq. The Post 51 family has adopted Charlie Company 324th Signal Battalion from East Point, GA. This Reserve unit made up of 144 service men and women is in the process of deploying in support of Operation Iraqi Freedom.

The post held a barbeque for the soldiers' families, planned a Christmas party for the soldiers, and Post 51 members attended the deployment ceremony for nine members of Charlie Company. Post 51 has also dedicated countless hours supporting the families of deployed members by helping with home repairs and offering financial advice.

Mr. President, I am very proud of our troops serving in Iraq and Afghanistan, and I am equally proud of organizations such as American Legion Post 51 for all it is doing to support our soldiers and their families here at home.

## THE LEGACY OF CHIC HECHT

Mr. ENSIGN. Mr. President, I rise today to celebrate the life of Chic Hecht, a friend, a leader, and a great Nevadan. Chic served my home State and this country with honor, humility, and great devotion. He leaves behind the legacy of a true statesman, an intelligence officer, a successful businessman, and most importantly, a committed husband and father.

For me, Chic's legacy is that of a public servant who was fiercely loyal, unwavering in his principles, and an all-around decent human being.

Chic was drafted into the Army after college and served as an intelligence officer in Berlin during the Korean war. Chic retained a lifelong membership in the National Military Intelligence Association, and in 1988, was inducted into the Army Intelligence Hall of Fame.

Chic served in the Nevada State Senate for more than a decade before winning a U.S. Senate seat in what has been called the biggest political upset in our State's history. During his term in the Senate, Chic served on the Energy and Natural Resources Committee; the Banking, Housing and Urban Affairs Committee; and the Select Committee on Intelligence. In the Senate, Chic worked with President Reagan in persuading the Soviet Union to lift restrictions on the emigration of Jews—a part of his legacy that will endure for generations. Chic went on to serve 4 years as the U.S. Ambassador to the Bahamas.

But it was Nevada that was always home to Chic. And Chic never lost that down-to-earth, man of the people charisma that won him friends wherever he went. While his charm helped him make friends throughout his life, it was his loyalty that made him a lifelong friend.

I will miss Chic. He was the first to step up when I was being criticized, and he believed in me when very few others did. In politics, you learn quickly who your real friends are, and Chic was a real friend.

He left the Senate more than a decade before I took office, but I am well aware of the impact he made. Chic was a great role model, and I hope to carry on his legacy and the lessons he taught me: to be fiercely loyal, unwavering in principles, and an all-around decent human being.

Chic will be missed, but he has set an example for us all to follow. God bless him.

# ADDITIONAL STATEMENTS

## THE DEATH OF SISTER ROSE THERING

• Mr. MENENDEZ. Mr. President, New Jersey and the Nation mourn the May 6, 2006, passing of Sister Rose Thering, a selfless luminary, who was a leader in stamping out bigotry and intolerance and who brought Christians and Jews together for increased mutual understanding. We were indeed lucky to have Sister Rose live in New Jersey for so many years. From 1968, when she first came to Seton Hall in South Orange, New Jersey benefited greatly from her wisdom and her tenacity to act as a bridge between people of different faiths and backgrounds. Sister Rose has made many contributions to the New Jersey community. As a member of the New Jersey Holocaust Commission, she helped write a 1994 law mandating the teaching of the Holocaust and genocide in the schools in New Jersey. As a member of the Seton Hall community, she forged an educational outreach program in Christian-Jewish studies.

Last year, Sister Rose moved back to Racine, WI, to live with her Sisters in the convent in which she initially entered religious life. Many in the New Jersey community sent her off with heavy hearts, knowing she was ill and knowing that they might never see her again. But it was her wish to live her last remaining days with her Dominican Sisters in Racine. As her life went full circle, the path she took is an example to us all.

In her early years, Sister Rose was dismayed at the disparaging comments she heard about Jews. She learned from her teachers that Jews killed Jesus; she heard whisperings of other anti-Semitic statements in her close-knit community. Concerned that a people were being unfairly treated, Sister Rose made it her passion to fight anti-Semitism and to bring attention to the culprit Catholic texts in which anti-Semitism was perpetuated. She wrote her doctorate dissertation on this topic at St. Louis University. In 1965, the Vatican used her dissertation as a basis for Nostra Aetate, the declaration that forever changed the relations between Catholic and Jews.

Sister Rose continued her commitment to Jewish-Christian relations by forging strong bonds with the Jewish community. She was unconventional, feisty, and strong willed always wanting to make principled decisions in support of her cause. She wore a necklace of the Star of David fused to the cross. In 1986, she protested the inauguration of President Kurt Waldheim, former U.N. Secretary General, because he had served in a Nazi unit. In 1987, she went to the Soviet Union to protest the treatment of Russian Jews. She visited Israel frequently, often bringing students with her. At a particularly vulnerable time for Israel, Sister Rose decided to attend the Rally for Israel on April 15, 2002 on the Mall in Washington, DC. Despite her poor health, when she learned that there was no Catholic speaker on the program, she insisted on speaking to show her solidarity. And as no surprise, it was Sister Rose that was given the honor of giving the invocation.

Her legacy is great. It lives on in the documentary ''Sister Rose's Passion'' that won a Tribeca Film Festival

Award and nomination for an Academy Award for best documentary. It lives on the Sister Rose Thering Endowment for Christian-Jewish studies, which has provided scholarships for 350 teachers for graduate work on the Holocaust and other related topics. She will be missed for all her good work and for taking the difficult path toward greater understanding between peoples.●

## IN CELEBRATION OF THE 30TH ANNIVERSARY OF THE MARY CAMPBELL CENTER

● Mr. CARPER. Mr. President, I rise today to celebrate the 30th anniversary of the Mary Campbell Center in serving people with disabilities in Delaware. Since opening in 1976, the Mary Campbell Center has touched the lives of literally thousands of people.

The center is located in Wilmington, DE, on 10 beautiful acres of land. The grounds were originally a farm owned by Amos and Mary Talley Campbell, whose daughter Evelyn had Down's syndrome. After his wife died, Amos Campbell donated their land so that a special long-term-care facility for Evelyn and other people with disabilities could be built. And that is how it came to be called the Mary Campbell Center.

The center was founded by a group of loving individuals—Marjorie M. Anderson, Richard P. DiSabatino, Sr., Barbara Z. Holmes, David W. Holmes, William H. Kelley, Joseph J. Picciotti, Jr., Marcia V. Raniere, Charles E. Welch, and Charma L. Welch. Each of these founders and their families has given unselfishly to make the Mary Campbell Center the success that it is today.

Since 1976, there have been many Mary Campbell Center milestones. The center has grown from having a handful of residents to 65 residents. They benefit from around-the-clock health care, case management, counseling, education, assistive technology, recreation, physician services, physical therapy, occupational therapy, massage therapy, speech and language therapy, hydrotherapy, exercise, nutritional services, and transportation. Local families have come to depend on the Mary Campbell Center for respite care. Residents and members of the community are also benefiting from the center's unique educational program. Furthermore, over 200 children and youths with special needs and their siblings participate in various programs and summer camp experiences. And the most recent venture, the day program, is expanding to serve even more families.

Physically, the Mary Campbell Center has gone from a compact building to a comfortable state-of-the-art and fully accessible facility with an indoor swimming pool, a learning center with the latest technologies, a greenhouse, and an adaptive playground. There is even an accessible nature trail that is an especially popular retreat during spring and summer. Today, more than ever, assistive technology is helping so many reach new goals and communicate with family and friends all over the world. Community involvement is at an alltime high. Over 300 volunteers give their time and talent to make a difference there. As the Mary Campbell Center enters its third decade, it continues to grow. Another expansion to the building is about to get underway. The center is doubling the size of their community room, the All-Star Room, and constructing a basement. This will provide additional usable space.

I had the privilege of visiting the Mary Campbell Center earlier this year. I was able to see first hand the difference the center makes in people's lives. I rise today to thank the Mary Campbell Center community for all that they do in Delaware, and I wish them a very happy 30th anniversary.●

## MESSAGE FROM THE HOUSE

At 2:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1165. An act to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii.

S. 1869. An act to reauthorize the Coastal Barrier Resources Act, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 518. An act to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds.

H.R. 586. An act to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes.

H.R. 2978. An act to allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes.

H.R. 3682. An act to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge.

The message further announced that pursuant to section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), amended by section 1401 of Public Law 108–7, the order of the House of December 18,2005, and upon the recommendation of the Majority Leader, the Speaker appoints the following member on the part of the House of Representatives to the Board of Trustees of the Open World Leadership Center for a term of 3 years: Mr. Roger F. Wicker of Tupelo, Mississippi.

The message also announced that pursuant to section 201 (b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2651 note), the order of the House of December 18, 2005, and upon the recommendation of the Minority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Commission on International Religious Freedom for a 2-year term ending May 14, 2008: Ms. Elizabeth H. Prodromou of Boston, Massachusetts, to succeed herself.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 586. An act to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2978. An act to allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3682. An act to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge; to the Committee on Environment and Public Works.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2810. A bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 518. An act to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6858. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, the report of proposed legislation entitled ''Child Pornography Amendments of 2006''; to the Committee on the Judiciary.

EC–6859. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Change to Vintage Date Requirements (2005R–212P)'' (RIN1513–AB11) received on May 17, 2006; to the Committee on the Judiciary.

EC–6860. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report containing the initial estimate of the Secretary's recommendation for the applicable percentage increase in Medicare's hospital inpatient prospective payment system (IPPS) rates for Federal fiscal year (FY) 2007 and initial estimates on recommendations for updates to the payment amounts for hospitals and hospital units excluded from the IPPS, and for adjustments to the diagnosis-related group (DRG) weighting factors; to the Committee on Finance.

EC–6861. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of action on a nomination, discontinuation of service in the acting role, and conformation for the position of Assistant Secretary for Occupational Safety and Health, received on May 15, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–6862. A communication from the Director, Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk Income Loss Contract Program'' (RIN0560–AH47) received on May 15, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6863. A communication from the Acting Administrator, National Highway Traffic Safety Administration and the Acting Assistant Secretary for Communication and Information, National Telecommunications and Information Administration, Department of Commerce, transmitting, pursuant to law, a report on the activities of the Implementation Coordination Office; to the Committee on Commerce, Science, and Transportation.

EC–6864. A communication from the Secretary of Transportation, transmitting, the report of proposed legislation to amend the automobile fuel economy provisions of title 49, United States Code, to reform the setting and calculation of fuel economy standards for passenger automobiles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–6865. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels less than 60 feet (18.3 Meters) Length Overall Using Pot or Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. 040606A) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6866. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. 040506C) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6867. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. 040606B) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6868. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska'' (I.D. 040706G) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6869. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and 'Other Flatfish' by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (I.D. 041206A) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6870. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (I.D. 011106A) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6871. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NOAA Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers; Fisheries Off West Coast States; Fisheries in the Western Pacific; Final Rule'' (RIN0648–AU21) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6872. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Upgrade Electronic Reporting Software and Hardware Requirements'' (RIN0648–AS93) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6873. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations (including 3 regulations beginning with CGD05–05–031)'' (RIN1625–AA08) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6874. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones (including 4 regulations beginning with COTP Honolulu 06–005)'' (RIN1625–AA87) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6875. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Chesapeake Bay, between Sandy Point and Kent Island, MD'' (RIN1625–AA87) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6876. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; Wishkah River, WA'' (RIN1625–AA09) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6877. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, MD'' (RIN1625–AA08) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6878. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 7 regulations beginning with CGD01–06–019)'' (RIN1625–AA09) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6879. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (including 7 regulations beginning with COPT Guam 06–004)'' (RIN1625–AA00) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6880. A communication from the Assistant Chief Counsel, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Design Standards for Highways; Interstate System'' (RIN2125–AF06) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–6881. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Grant Criteria for Alcohol-Impaired Driving Countermeasures Programs (Section 410)'' (RIN2127–AJ73) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6882. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Light Duty Truck Lines Subject to the Requirements of Part 541 and Exempted Vehicle Lines for Model Year 2007'' (RIN2127–AJ89) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6883. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Definition of Low Speed Vehicles (LSV) Response to Petitions for Reconsideration'' (RIN2127–AJ85) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6884. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Participating in and Receiving Data from

the National Driver Register Problem Driver Pointer System Pursuant to a Personnel Security Investigation and Determination'' (RIN2127–AJ66) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6885. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modernize Federal Motor Vehicle Safety Standards No. 114; Theft Protection'' (RIN2127–AJ31) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6886. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Response to Petitions for Reconsideration, FMVSS No. 118, Power-Operated Window, Partition, and Roof Panel Systems'' (RIN2127–AJ78) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6887. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities'' ((RIN2120–AH14)(Docket No. FAA–2002–11301)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6888. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200F, 747–300, 747–400, 747–400D, 747SP, 747SR, 767–200, 767–300, 777–200, 777–300, and 777–300ER Series Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–057)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6889. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Thrush Aircraft, Inc. Model 600 S2D and S2R Series Airplanes'' ((RIN2120–AA64)(Docket No. 2006–CE–08)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6890. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company Model CF6–80C2D1F Turbofan Engines'' ((RIN2120–AA64)(Docket No. 2005–NE–31)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6891. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, and 747SR Series Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–105)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6892. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Lycoming Engines AEIO–360, IO–360, O–360, LIO–360, and LO–360 Series Reciprocating Engines'' ((RIN2120–AA64)(Docket No. 2005–NE–50)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6893. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca Arriel 1B, 1D, and 1D1 Turboshaft Engines'' ((RIN2120–AA64)(Docket No. 2005–NE–26)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6894. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100B SUD, 747–200B, 747–300, 747–400, and 747–400D Series Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–102)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6895. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. Model ERJ 170 Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–117)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6896. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–204)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Horace A. Thompson, of Mississippi, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2011.

*Kent D. Talbert, of Virginia, to be General Counsel, Department of Education.

*J. C. A. Stagg, of Virginia, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 17, 2011.

*Vince J. Juaristi, of Virginia, to be a member of the Board of Directors of the Corporation for National and Community Service for a term expiring February 8, 2009.

*Jerry Gayle Bridges, of Virginia, to be Chief Financial Officer, Corporation for National and Community Service.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2818. A bill to reduce temporarily the duty on automatic shower cleaners; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mr. DURBIN):

S. 2819. A bill to amend part C of title XVIII of the Social Security Act to provide for a minimum payment rate by Medicare Advantage organizations for services furnished by a critical access hospital and a rural health clinic under the Medicare program; to the Committee on Finance.

By Mr. COLEMAN:

S. 2820. A bill to require the Secretary of Energy to provide block grants to States to provide needs-based assistance to households of consumers of high-priced fuel, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 2821. A bill to repeal the imposition of withholding on certain payments made to vendors by government entities; to the Committee on Finance.

By Mr. GRAHAM:

S. 2822. A bill to authorize the Marion Park Project and Committee of the Palmetto Conservation Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. HATCH, Mr. DEWINE, Mr. BURR, and Mr. FRIST):

S. 2823. A bill to provide life-saving care for those with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEMINT (for himself, Mr. ENSIGN, Mr. MARTINEZ, Mr. INHOFE, Mr. BURNS, and Mr. ALLEN):

S. 2824. A bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 2825. A bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 2826. A bill to amend the Internal Revenue Code of 1986 to extend and expand relief from the alternative minimum tax and to repeal the extension of the lower rates for capital gains and dividends for 2009 and 2010; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. LIEBERMAN):

S. 2827. A bill to amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. LAUTENBERG, Mr. SARBANES, Mr. AKAKA, Mr. KERRY, Ms. LANDRIEU, and Mr. MENENDEZ):

S. 2828. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mr. REID, Mr. DURBIN, Ms. MIKULSKI, Mr. DODD, Mr. MENENDEZ, Mr. CARPER, Mr. DAYTON, Mr. KERRY, Mr. REED,

Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. SALAZAR, Mr. SCHUMER, Mr. DORGAN, Mrs. CLINTON, Mr. LEAHY, Mr. JOHNSON, Mrs. BOXER, Mr. LIEBERMAN, Mr. BYRD, Ms. STABENOW, Mr. LEVIN, and Mr. BIDEN):

S. 2829. A bill to reduce the addiction of the United States to oil, to ensure near-term energy affordability and empower American families, to accelerate clean fuels and electricity, to provide government leadership for clean and secure energy, to secure a reliable, affordable, and sustainable energy future, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 482. A resolution supporting the goals of an annual National Time-Out Day to promote patient safety and optimal outcomes in the operating room; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 327

At the request of Mr. SANTORUM, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance.

S. 548

At the request of Mr. CONRAD, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 889

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 889, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 1353

At the request of Mr. REID, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1513

At the request of Ms. MIKULSKI, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1513, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 1966

At the request of Mrs. DOLE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1966, a bill to establish a pilot program to provide grants to encourage eligible institutions of higher education to establish and operate pregnant and parenting student services offices for pregnant students, parenting students, prospective parenting students who are anticipating a birth or adoption, and students who are placing or have placed a child for adoption.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2278

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Maine (Ms. COLLINS), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 2278, a bill to amend the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2321

At the request of Mr. SANTORUM, the names of the Senator from Nevada (Mr. REID) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2321, a bill to require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

S. 2484

At the request of Mr. OBAMA, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2484, a bill to amend the Internal Revenue Code of 1986 to prohibit the disclosure of tax return information by tax return preparers to third parties.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2593

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2593, a bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2653

At the request of Mr. STEVENS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2653, a bill to direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

S. 2666

At the request of Mr. BURNS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2666, a bill to temporarily suspend the revised tax treatment of kerosene for use in aviation under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

S. 2685

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2685, a bill to suspend temporarily the duty on certain textured rolled glass sheets.

S. 2736

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2736, a bill to require the Secretary of Veterans Affairs to establish centers to provide enhanced services to veterans with amputations and prosthetic devices, and for other purposes.

S. 2779

At the request of Mr. INHOFE, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2779, a bill to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

S. CON. RES. 92

At the request of Mr. DEMINT, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Con. Res. 92, a concurrent resolution encouraging all 50 States to recognize and accommodate the release of public school pupils from school attendance to attend off-campus religious classes at their churches, synagogues, houses of worship, and faith-based organizations.

S. RES. 462

At the request of Mr. GRASSLEY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 462, a resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise.

AMENDMENT NO. 3963

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 3963 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3964

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 3964 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3968

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 3968 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3971

At the request of Mr. OBAMA, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 3971 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 3971 proposed to S. 2611, supra.

AMENDMENT NO. 3974

At the request of Mr. LEAHY, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 3974 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3978

At the request of Mr. INHOFE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 3978 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3979

At the request of Mr. SESSIONS, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Nebraska (Mr. NELSON), the Senator from Louisiana (Mr. VITTER), the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. KYL) were added as cosponsors of amendment No. 3979 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. TALENT, his name was added as a cosponsor of amendment No. 3979 proposed to S. 2611, supra.

At the request of Mr. ISAKSON, his name was added as a cosponsor of amendment No. 3979 proposed to S. 2611, supra.

AMENDMENT NO. 3985

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of amendment No. 3985 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3996

At the request of Mr. INHOFE, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 3996 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 4018

At the request of Mr. STEVENS, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 4018 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mrs. HUTCHISON, her name and the name of the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 4018 proposed to S. 2611, supra.

At the request of Mrs. MURRAY, her name was added as a cosponsor of amendment No. 4018 proposed to S. 2611, supra.

AMENDMENT NO. 4025

At the request of Mr. DEMINT, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 4025 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 4027

At the request of Mr. KYL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 4027 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. CORNYN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 4027 proposed to S. 2611, supra.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2818. A bill to reduce temporarily the duty on automatic shower cleaners; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce legislation that would temporarily reduce the duty on automatic shower cleaners on behalf of S.C. Johnson, a company headquartered in Racine, WI.

I understand the importance of manufacturing and the role it plays in our everyday lives. It is no secret that the Bush administration has enfeebled the manufacturing sector, cutting needed funding that helps manufacturers stay competitive. Since 2000, Wisconsin has been hit hard, losing 90,000 manufacturing jobs. A healthy manufacturing sector is key to better jobs, rising productivity, and higher standards of living. Every individual and industry depends on manufactured goods. And the production of those goods creates the quality jobs that keep so many American families healthy and strong.

This legislation would reduce the duty on automatic shower cleaners, an input S.C. Johnson refines to make high quality and affordable shower cleaners that eliminate the build-up of tough soap scum, mold, and mildew stains for the U.S. market. S.C. Johnson was created in 1886 as a parquet flooring company and today is one of the world's leading manufacturers of household products including Ziploc storage containers, Windex glass cleaner, Raid insect repellant, and Glade fragrances. Today, S.C. Johnson employs 12,000 people and provides products in more than 110 countries around the world. In January of 2006, S.C. Johnson was awarded the Ron Brown Award for Corporate Leadership for its outstanding achievements in employee and community relations. Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ELECTRIC AUTOMATIC SHOWER CLEANERS.**

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| '' | 9902.98.08 | Bath and shower cleaner electric device that dispenses a dilute solution of detergents and bleach alternative into a shower enclosure using a button activated, battery powered piston pump controlled by a microchip that automatically releases a measured amount of solution on demand (provided for in subheading 8509.80.00) | 2.1% | No change | No change | On or before 12/31/2009 | '' |

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

---

By Mr. CRAIG:

S. 2821. A bill to repeal the imposition of withholding on certain payments made to vendors by government entities; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise to introduce S. 2821, the Withholding Tax Relief Act of 2006. Today, President Bush signed into law H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005, and this afternoon, I am making good on a promise I made on the Senate floor last week—to repeal the expanded withholding tax contained in H.R. 4297 to ensure that the bill does what its title claims, that is, prevents tax Increases.

Americans have been asking for tax relief. Congress answered this call, in part, when it passed the Tax Increase Prevention and Reconciliation Act of 2005. The lower taxes on capital gains and dividends—and the higher alternative minimum tax exemption amounts—contained in H.R. 4297 will assist small businesses, encourage the kind of investment that creates jobs and makes our economy grow, and ensure fairer tax treatment for middle-income families who would otherwise be left footing the bill for a tax intended for the wealthy.

Alongside these tax relief provisions, however, conferees inserted a sweeping new withholding requirement that will raise taxes by nearly $7 billion. This bill seems to have a history of that. When the original tax reconciliation bill came before the Senate, it contained a windfall profits tax provision that would have imposed an additional $4.923 billion tax on the energy industry. I voted against it because the bill that was supposed to provide tax relief actually raised taxes. Although the conferees stripped this provision in conference, they replaced it with an even bigger tax hike—section 511's expanded withholding requirement.

Section 511 of H.R. 4297 imposes a new mandatory 3 percent withholding requirement on all payments for goods and services made to Federal, State, and local contractors. The provision, which is the largest revenue raiser in the bill, represents a significant shift in U.S. tax policy.

Withholding has not always been around. Despite predominant public opposition, Congress enacted mandatory withholding on Federal income tax in 1943 in order to fund World War II. As a result, tax collections jumped from $7.3 billion in 1939 to $43 billion in 1945. That is an increase of $35.7 billion in just 4 years. In congressional hearings on the issue, Congressmen spoke candidly of the revenues that needed to be ''fried out of the taxpayers.'' There was no doubt in the minds of lawmakers that the result of withholding would be an increase in the tax burden on the public.

Congress sought to expand withholding to dividends and interest in 1982, and public opposition was so profound that it was repealed 1 year later. Now, proponents of section 511's expanded withholding requirement say that it is necessary to close a ''tax loophole'' that allows taxpayers to avoid their tax obligations. There is no such ''loophole''—the Internal Revenue Service, IRS, has simply failed to do its job of collecting.

Information-reporting requirements are already in place to assist the IRS in its collection duties. Government entities are required to make an information return, reporting payments to corporations as well as individuals. Moreover, every head of every Federal executive agency that enters into contracts must file an information return reporting the contractor's name, address, date of contract action, amount to be paid to the contractor, and other information. Expanding withholding would now not only have the Federal Government spend taxpayers' dollars, but it would make taxpayers bear the burden and costs of collecting them, too.

The costs of section 511 are high—so high, in fact, that the Congressional Budget Office said that the provision constitutes an unfunded mandate on the State and local governments, exceeding the annual threshold established in the Unfunded Mandates Reform Act. The provision will also cause the cost of doing business to go up. A 3-percent withholding on multibillion dollar contracts—for as long as 15 months, held interest-free—will affect cash flows, investment, and cause businesses to raise prices in order to make up for losses, thereby putting them at a significant competitive disadvantage. Consider the Federal contract totals for Idaho and California alone. In fiscal year 2004, Idaho's nondefense contracts totaled $1.1 billion, and in fiscal year 2005, the State's defense contracts added up to $154 million. In fiscal year 2004, California's nondefense contracts totaled $9.4 billion, and in fiscal year 2005, the State had $30.9 billion in defense contracts.

The bill that I am introducing today, the Withholding Tax Relief Act of 2006, will repeal the $7 billion withholding tax contained in H.R. 4297. Tax relief should not be coupled with tax increases, and I will continue to work to give more meaning to the phrase in the bill's title, ''Tax Increase Prevention.'' This bill is a first step. I urge my colleagues to join me in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2821

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Withholding Tax Relief Act of 2006''.

**SEC. 2. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.**

The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

---

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, MRS. FEINSTEIN, and Mrs. BOXER):

S. 2825. A bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, today I am introducing a bill with Senators HUTCHISON, FEINSTEIN, and BOXER entitled the Border Health Security Act of 2006. This bill addresses the tremendous health problems confronting our nation's southwestern border.

The United States-Mexico border region is defined in the U.S.-Mexico Border Health Commission authorizing legislation as the area of land 100 kilometers, or 62.5 miles, north and south of the international boundary. It stretches 2,000 miles from California, through Arizona and New Mexico to the southern tip of Texas and is estimated to have a population of 12 million residents.

The border region comprises 2 sovereign nations, 25 Native American tribes, and 4 States in the United States and six States in Mexico.

Why should we provide some focus to this geographic region? The situation along the border is among the most dire in the country. In the past, we have recognized problems with other regions, through the Denali, Delta, and Appalachian commissions, and have provided targeted funding to those areas. The U.S.-Mexico Border Health Commission, legislation I sponsored

with Senators MCCAIN, Simon, and HUTCHISON, was created for the same reasons and annually receives about $4 million in funding that is matched by $1 million from the Mexican Government for administrative purposes to improve international cooperation and agreements to tackle health problems in the region. However, we need to take the next step and provide resources to address the problems.

In the border region, 3 of the 10 poorest counties in the United States are located in the border area, 21 of the counties have been designated as economically distressed, approximately 430,000 people live in 1,200 colonias in Texas and New Mexico, which are unincorporated communities that are characterized by substandard housing, unsafe public drinking water, and wastewater systems, very high unemployment, and the lowest per capita income as a region in the Nation.

In a report earlier this year by the U.S.-Mexico Border Counties Coalition, the Coalition found that, if the border were a State, it would rank second with respect to the uninsured, last with respect to access to health professionals, including doctors, nurses and allied health professionals per capita; second with respect to tuberculosis, third with respect to hepatitis; and fifth with respect to diabetes.

The result is a health system that confronts tremendous health problems with little or no resources.

According to U.S. Census Bureau data reported in September 2005 for the three-year average of 2002 to 2004, the states of Texas and New Mexico rank first and second as the states with the highest uninsured rates in the country with rates of 25.0 percent and 21.0 percent, respectively. California and Arizona are not much better and had uninsured rates of 18.7 percent and 17.1 percent, respectively.

However, the figures along the border are even worse, as the rates of uninsured are higher still than that in the four states overall. Uninsured rates in many border counties are estimated to be above 30 percent and as high as 50 percent in certain communities. According to the U.S. Census Bureau's small area health insurance estimates, SAHIE, the three New Mexico border counties had an uninsured rate of 29.4 percent compared to the statewide average of 23.7 percent and more than twice the United States rate of 14.2 percent.

As the U.S.-Mexico Border Commission notes, ''The border is characterized by weaknesses in the border health systems and infrastructure, lack of public financial resources, poor distribution of physicians and other health professionals and hospitals. Moreover, the low rates of health insurance coverage and low incomes puts access to health services out of reach for many border residents and thus keeps the border communities at risk.''

The U.S.-Mexico Border Commission has identified and approved of an agenda through its Health Border 2010 initiative, which seeks to, among other things: reduce by 25 percent the population lacking access to a primary provider; reduce the female breast cancer death rate by 20 percent; reduce the cervical cancer death rate by 30 percent; reduce deaths due to diabetes by 10 percent; reduce hospitalizations due to diabetes by 25 percent; reduce the incidence of HIV cases by 50 percent; reduce the incidence of tuberculosis cases by 50 percent; reduce the incidence of hepatitis A and B cases by 50 percent; reduce the infant mortality rate by 15 percent; and, increase initiation of prenatal care in the first trimester by 85 percent.

However, the U.S.-Mexico Border Commission lacks the resources that are needed to address those important goals. The bipartisan legislation I am introducing today with Senators HUTCHISON, FEINSTEIN, and BOXER would address that problem by reauthorizing the U.S.-Mexico Border Health Commission at $10 million and authorizing additional funding to improve the infrastructure, access, and the delivery of health care services along the entire U.S.-Mexico border.

These grants would be flexible and allow the individual communities to establish their own priorities with which to spend these funds for the following range of purposes: maternal and child health, primary care and preventative health, public health and public health infrastructure, health promotion, oral health, behavioral and mental health, substance abuse, health conditions that have a high prevalence in the border region, medical and health services research, community health workers or promotoras, health care infrastructure, including planning and construction grants, health disparities, environmental health, health education, and outreach and enrollment services with respect to Medicaid and the State Children's Health Insurance Program, CHIP.

We would certainly expect those grants would be used for the purpose of striving to achieve the measurable goals established by the Health Border 2010 initiative.

In addition, the bill contains authorization for $25 million for funding to border communities to improve the infrastructure, preparedness, and education of health professionals along the U.S.-Mexico border with respect to bioterrorism. This includes the establishment of a health alert network to identify and communicate information quickly to health providers about emerging health care threats.

Mr. President, on October 15, 2001, just one month after the September 11, 2001, attack on our Nation, Secretary Thompson spoke to the U.S.-Mexico Border Health Commission and urged them to put together an application for $25 million for bioterrorism and preparedness. The Commission has done so but has not seen targeted funding despite the vulnerability that border communities have with respect to a bioterrorism attack. Our legislation addresses the vulnerability of communities along the border and targets funding to those communities specifically to improve infrastructure, training, and preparedness.

Our relationship with Mexico, like that with Canada, is a special one. Those countries are our closest neighbors, and yet, we often and wrongly neglect our neighbor to the South and the much needed economic development needed in the region. Mexico is the United States's second largest trading partner and the border is recognized as one of the busiest ports of entry in the world. And yet the region is often neglected.

As the U.S.-Mexico Border Health Commission points out, ''Without increases and sustained federal, state and local governmental and private funding for health programs, infrastructure and education, the border populations will continue to lag behind the United States in these areas.''

I would like to thank Senator HUTCHISON, who was an original cosponsor of the U.S.-Mexico Border Health Commission legislation, Public Law 103–400, that we passed in 1994 and is the lead cosponsor of this legislation today. She has also been the lead senator in getting funding for the U.S.-Mexico Border Health Commission since its inception.

I would also thank Senators FEINSTEIN and BOXER for working with us on this important legislation and for their constant support over the years for the work of the Commission.

I urge the adoption of this bipartisan legislation by this Congress and ask for unanimous consent for a summary and the text of the bill to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2825

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Border Health Security Act of 2006''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) BORDER AREA.—The term ''border area'' has the meaning given the term ''United States-Mexico Border Area'' in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n–6).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

**SEC. 3. BORDER HEALTH GRANTS.**

(a) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State, public institution of higher education, local government, tribal government, nonprofit health organization, or community health center receiving assistance under section 330 of the Public Health Service Act (42 U.S.C. 254b), that is located in the border area.

(b) AUTHORIZATION.—From funds appropriated under subsection (f), the Secretary, acting through the United States members of the United States-Mexico Border Health

Commission, shall award grants to eligible entities to address priorities and recommendations to improve the health of border area residents that are established by—

(1) the United States members of the United States-Mexico Border Health Commission;

(2) the State border health offices; and

(3) the Secretary.

(c) APPLICATION.—An eligible entity that desires a grant under subsection (b) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the grant funds for—

(1) programs relating to—

(A) maternal and child health;

(B) primary care and preventative health;

(C) public health and public health infrastructure;

(D) health promotion;

(E) oral health;

(F) behavioral and mental health;

(G) substance abuse;

(H) health conditions that have a high prevalence in the border area;

(I) medical and health services research;

(J) workforce training and development;

(K) community health workers or promotoras;

(L) health care infrastructure problems in the border area (including planning and construction grants);

(M) health disparities in the border area;

(N) environmental health;

(O) health education; and

(P) outreach and enrollment services with respect to Federal programs (including programs authorized under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 and 1397aa)); and

(2) other programs determined appropriate by the Secretary.

(e) SUPPLEMENT, NOT SUPPLANT.—Amounts provided to an eligible entity awarded a grant under subsection (b) shall be used to supplement and not supplant other funds available to the eligible entity to carry out the activities described in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2007 and each succeeding fiscal year.

**SEC. 4. BORDER BIOTERRORISM PREPAREDNESS GRANTS.**

(a) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means a State, local government, tribal government, or public health entity.

(b) AUTHORIZATION.—From funds appropriated under subsection (e), the Secretary shall award grants to eligible entities for bioterrorism preparedness in the border area.

(c) APPLICATION.—An eligible entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) USES OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the grant funds to, in coordination with State and local bioterrorism programs—

(1) develop and implement bioterror preparedness plans and readiness assessments and purchase items necessary for such plans;

(2) coordinate bioterrorism and emergency preparedness planning in the region;

(3) improve infrastructure, including syndrome surveillance and laboratory capacity;

(4) create a health alert network, including risk communication and information dissemination;

(5) educate and train clinicians, epidemiologists, laboratories, and emergency personnel; and

(6) carry out such other activities identified by the Secretary, the United States-Mexico Border Health Commission, State and local public health offices, and border health offices.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.

**SEC. 5. UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT AMENDMENTS.**

The United States-Mexico Border Health Commission Act (22 U.S.C. 290n et seq.) is amended by adding at the end the following:

**''SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

''There is authorized to be appropriated to carry out this Act $10,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.''.

**SEC. 6. COORDINATION OF HEALTH SERVICES AND SURVEILLANCE.**

The Secretary may coordinate with the Secretary of Homeland Security in establishing a health alert system that—

(1) alerts clinicians and public health officials of emerging disease clusters and syndromes along the border area; and

(2) is alerted to signs of health threats or bioterrorism along the border area.

**SEC. 7. BINATIONAL PUBLIC HEALTH INFRASTRUCTURE AND HEALTH INSURANCE.**

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning binational public health infrastructure and health insurance efforts. In conducting such study, the Institute shall solicit input from border health experts and health insurance issuers.

(b) REPORT.—Not later than 1 year after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit to the Secretary and the appropriate committees of Congress a report concerning the study conducted under such contract. Such report shall include the recommendations of the Institute on ways to expand or improve binational public health infrastructure and health insurance efforts.

**SEC. 8. PROVISION OF RECOMMENDATIONS AND ADVICE TO CONGRESS.**

Section 5 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n-3) is amended by adding at the end the following:

''(d) PROVIDING ADVICE AND RECOMMENDATIONS TO CONGRESS.—A member of the Commission, or an individual who is on the staff of the Commission, may at any time provide advice or recommendations to Congress concerning issues that are considered by the Commission. Such advice or recommendations may be provided whether or not a request for such is made by a member of Congress and regardless of whether the member or individual is authorized to provide such advice or recommendations by the Commission or any other Federal official.''.

---

FACT SHEET

BORDER HEALTH SECURITY ACT OF 2006

Sens. Jeff Bingaman (D–NM), Kay Bailey Hutchison (R–TX), Dianne Feinstein (D–CA), and Barbara Boxer (D–CA) introduced the ''Border Health Security Act of 2006'' on May 17, 2006. The legislation would improve the infrastructure, access, and delivery of health care services to residents along the U.S.-Mexico border.

The legislation would achieve these goals by—

Improving Border Health Services: Provides authorization for funding to states, local governments, tribal governments, institutions of higher education, nonprofit health organizations, or community health centers along the U.S.-Mexico border to improve infrastructure, access, and the delivery of health care services.

These grants are flexible and would allow the community to establish its own priorities with which to spend these funds for the following range of purposes: maternal and child health, primary care and preventative health, public health and public health infrastructure, health promotion, oral health, behavioral and mental health, substance abuse, health conditions that have a high prevalence in the border region, medical and health services research, community health workers or promotoras, health care infrastructure (including planning and construction grants), health disparities, environmental health, health education, and outreach and enrollment services with respect to Medicaid and the State Children's Health Insurance Program (CHIP).

Providing Border Bioterrorism Preparedness Grants: Provides for $25 million in funding to states and local governments or public health departments to improve the infrastructure, preparedness, and education of health professionals along the U.S.-Mexico border with respect to bioterrorism. This includes the establishment of a health alert network to identify and communicate information quickly to health providers about emerging health care threats and coordination of the system between the U.S. Department of Health and Human Services (HHS) and Department of Homeland Security (DHS).

Reauthorizing the U.S.-Mexico Border Health Commission: Provides for the reauthorization of the U.S.-Mexico Border Health Commission at $10 million annually.

Coordination and Study: The legislation also affirms that recommendations and advice on how to improve border health from the U.S.-Mexico Border Health Commission shall be communicated to the Congress. And finally, the legislation provides for a study of binational health insurance options and barriers to improve coverage for people residing along the border.

---

By Mr. KERRY:

S. 2826. A bill to amend the Internal Revenue Code of 1986 to extend and expand relief from the alternative minimum tax and to repeal the extension of the lower rates for capital gains and dividends for 2009 and 2010; to the Committee on Finance.

Mr. KERRY. Mr. President, today, President Bush is signing H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005. I opposed this legislation because it contains the wrong priorities for America—leaving behind working families and substantially adding to the deficit. This law chooses to extend the lower rates on capital gains and dividends for 2009 and 2010, but only addresses the individual alternative minimum tax (AMT) for 2006.

According to the Joint Committee on Taxation, those earning $200,000 or more will receive 84 percent of the benefit of the capital gains tax cut and 63 percent of the benefit of the dividends tax cuts. According to the Congressional Budget Office, 42.8 percent of taxpayers with income between $50,000 and $100,000 will be impacted by the AMT if the AMT is not addressed for

2007—a number that increases to 66 percent by 2010. The Tax Increase Prevention and Reconciliation of Act of 2005 extends a tax cut that does not expire to the end of 2008 with a price tag of $50 billion, but fails to protect the hard working families that will be impacted by the AMT. These families were never intended to be impacted by the AMT, a tax originally designed to prevent a small number of high income taxpayers from avoiding taxation.

Today, I am introducing legislation that will address the AMT for 2007 and repeal the lower tax rates on capital dividends for 2009 and 2010. To calculate the AMT, individuals add back certain ''preference items'' to their regular tax liability. These include personal exemptions, the standard deduction, and the itemized deduction for state and local taxes. From this amount, taxpayers subtract the AMT exemption amount, commonly referred to as the ''patch'' which reverted to lower levels at the end of 2005. H.R. 4297 increased and extended the patch for 2006. The patch was increased in order to hold the same number of taxpayers harmless from the AMT in 2006 as in 2005.

The problem with the AMT is that while the regular tax system is indexed for inflation, the AMT exemption amounts and tax brackets remain constant. This has the perverse consequence of punishing taxpayers for the mere fact their incomes rose due to inflation.

A choice was made in 2001 to provide more tax cuts to those with incomes of over one million dollars rather than addressing a looming tax problem for the middle class. The Economic Growth and Tax Relief Reconciliation Act of 2001 did include a small adjustment to the AMT, but it was not enough. We knew at the time that the number of taxpayers subject to the AMT would continue to rise steadily. The combination of lower tax cuts and a minor adjustment to the AMT would cause the AMT to explode. We are now approaching this explosion.

My legislation extends and expands the AMT exemption amount for 2007 to prevent additional taxpayers from being impacted by the AMT. Without increasing and extending the AMT exemption for 2007, an additional 3.2 million taxpayers will be impacted by the AMT in 2007. In addition, the legislation will allow nonrefundable personal credits such as the higher education tax credits and the dependent care credit against the AMT for 2007. This legislation is offset by repealing the lower rates on capital gains and dividends.

My colleagues in the majority argue that the extension of the capital gains and dividends benefits is necessary to provide investor certainty. But I believe that the certainty of working families worried about paying the AMT should come first. New data from the Joint Committee on Taxation requested by the Ways and Means Democratic Members shows that in 2007, 62 percent of all taxable capital gain income will be recognized by taxpayers liable for the minimum tax. Simply put, taxpayers forced to carry the AMT burden will not benefit from the lower capital gains and dividends rate.

The AMT is a looming problem that is impacting hard-working families and for each year that we fail to address the AMT, it gets worse and more expensive. We need to address the AMT for 2007. My legislation is not a long-term cure to the AMT crisis, but it will provide certainty for next year to hard working families that will be impacted by the AMT just because of where they live and the number of children they have, and it will address the AMT in a revenue neutral manner for 2007 as well.

The Tax Increase Prevention and Reconciliation Act of 2005 addresses the AMT for 2006, but at a price—providing a $42,000 tax cut to those making more than a million dollars a year. The AMT for 2006 could have been addressed in a bill that did not include the extension of additional tax cuts and it could have been offset. Instead, addressing the AMT for 2006 was included in a bill that will add far more than $70 billion to the deficit.

We all agree that the AMT should not be impacting families with incomes below $100,000. I am concerned that we will not address the AMT for 2007 in a timely and fiscally responsible manner. My bill does this and would give Congress time to work together in a bipartisan manner to find a fiscally responsible permanent solution to the AMT.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2826

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.**

(a) IN GENERAL.—Section 55(d)(1) of the Internal Revenue Code of 1986, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended—

(1) by striking ''$62,550 in the case of taxable years beginning in 2006'' in subparagraph (A) and inserting ''$66,100 in the case of taxable years beginning in 2007'', and

(2) by striking ''$42,500 in the case of taxable years beginning in 2006'' in subparagraph (B) and inserting ''$45,900 in the case of taxable years beginning in 2007''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

**SEC. 2. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) of the Internal Revenue Code of 1986, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended—

(1) by striking ''2006'' in the heading thereof and inserting ''2007'', and

(2) by striking ''or 2006'' and inserting ''2006, or 2007''.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).''.

(2) Section 30C(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under subpart A and this subpart (other than this section).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

**SEC. 3. REPEAL OF EXTENSION OF LOWER RATES FOR CAPITAL GAINS AND DIVIDENDS.**

The amendment made by section 102 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

---

By Mr. AKAKA (for himself and Mr. LIEBERMAN):

S. 2827. A bill to amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Privacy Officer With Enhanced Rights Act of 2006, POWER Act. I am pleased to be joined by Senator LIEBERMAN, the Ranking Member of the Homeland Security and Governmental Affairs Committee, in introducing this important legislation, which is a companion bill to H.R. 3041. The POWER Act will strengthen the authority of the Department of Homeland Security, DHS, Chief Privacy Officer, CPO, and will provide a much needed check on government power.

Americans have an expectation that their personal privacy will not be invaded and that their government will not misuse its powers. Democracy is founded on the principle that the people are the ultimate source of the Government's powers. Recent events validate the suspicions of our Nation's Founders against concentrating power into the hands of the few or in granting authority to those who are not accountable for how power is utilized. We need to consider the effects of intelligence and information gathering now that new government powers threaten to erode our most cherished freedoms and technological advances appear to outpace our ability to protect personal information.

In response to the terrorist attacks of 9/11, new law enforcement strategies

were created and information sharing between government agencies increased substantially. DHS was established to face new challenges and address new threats. However, we were concerned that the unprecedented size and reach of the new department could intrude on the values that our nation cherishes most dearly. We wanted DHS to accomplish its vital mission, but we had to make sure that it was not at the cost of our liberty.

Times of crisis and unexpected trials do not excuse curtailment of our citizens' fundamental liberties, which is why the DHS CPO was created. The mission of the CPO is to ensure that the loss of the freedoms that define this country would not be sacrificed for increased vigilance against our adversaries. Although I voted against the Homeland Security Act, I was pleased to work with my colleagues to establish the CPO.

The DHS CPO has three primary responsibilities: (1) assuring that new technologies and information gathering methods do not erode personal privacy; (2) evaluating the privacy impact of new government programs; and (3) investigating privacy complaints.

However, the CPO's powers have proved to be inadequate. The major problem is that the CPO lacks subpoena power and, therefore, cannot fully investigate privacy violations. Instead, the CPO must rely on voluntary submissions of information in order to conduct investigations which significantly weakens the office. We all remember the news accounts about how the CPO's requests for documents in her investigation of the Transportation Security Administration's, TSA, transfer of passenger data from a major commercial air carrier to the Defense Department were rebuffed repeatedly. Our bill will go a long way to ensure that such situations will not happen again.

We are also concerned by the fact that the CPO cannot communicate directly with Congress, but instead, must report through DHS senior leadership. Similar to the Inspector General, the CPO can often be put at odds with those subject to investigation, so the authority to report directly to Congress and deliver unaltered findings is critical.

The POWER Act will address these shortcomings by providing the CPO with the power to: access all records deemed necessary to do the job; undertake any privacy investigation that is appropriate for the office; subpoena documents from the private sector when necessary to fulfill the CPO's statutory mandate; and obtain sworn testimony.

To provide independence for this position, the CPO will submit reports directly to Congress regarding the performance of his or her duties, without any prior comment or amendment by the DHS Secretary. In addition, our bill would protect the CPO from retaliation by mandating that the CPO cannot be removed from office without notifying the President and Congress of the reasons for removal.

With concerns over the development of new data mining activities at the Department and the potential use of commercial data by TSA, it is essential now more than ever that the DHS CPO have the tools and authority to protect the personal information of all Americans. I urge my colleagues to support this bill and ask unanimous consent that the text of the bill and a letter of support from the American Civil Liberties Union be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2827

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Privacy Officer With Enhanced Rights Act of 2006'' or the ''POWER Act of 2006''.

**SEC. 2. AUTHORITIES OF THE PRIVACY OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.**

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting ''(a) APPOINTMENT AND RESPONSIBILITIES.—'' before ''The Secretary''; and

(2) by adding at the end the following:

''(b) AUTHORITY TO INVESTIGATE.—

''(1) IN GENERAL.—The senior official appointed under subsection (a) may—

''(A) have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that relate to programs and operations with respect to the responsibilities of the senior official under this section;

''(B) make such investigations and reports relating to the administration of the programs and operations of the Department that are necessary or desirable as determined by that senior official;

''(C) require by subpoena the production, by any person other than a Federal agency, of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to performance of the responsibilities of the senior official under this section; and

''(D) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary to performance of the responsibilities of the senior official under this section.

''(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under paragraph (1)(C) shall, in the case of contumacy or refusal to obey, be enforceable by order of any appropriate United States district court.

''(3) EFFECT OF OATHS.—Any oath, affirmation, or affidavit administered or taken under paragraph (1)(D) by or before an employee of the Privacy Office designated for that purpose by the senior official appointed under subsection (a) shall have the same force and effect as if administered or taken by or before an officer having a seal of office.

''(c) SUPERVISION.—

''(1) IN GENERAL.—The senior official appointed under subsection (a) shall report to, and be under the general supervision of the Secretary.

''(2) NOTIFICATION TO CONGRESS.—If the Secretary removes the senior official appointed under subsection (a) or transfers that senior official to another position or location within the Department, the Secretary shall—

''(A) promptly submit a written notification of the removal or transfer to Houses of Congress; and

''(B) include in any such notification the reasons for the removal or transfer.

''(d) REPORTS BY SENIOR OFFICIAL TO CONGRESS.—The senior official appointed under subsection (a) shall submit reports directly to the Congress regarding performance of the responsibilities of the senior official under this section, without any prior comment or amendment by the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget.''.

---

AMERICAN CIVIL LIBERTIES UNION,
*Washington, DC, May 17, 2006.*

DEAR SENATORS AKAKA AND LIEBERMAN: The American Civil Liberties Union commends you for introducing the Privacy Officer With Enhanced Rights Act (POWER Act). This legislation and its companion bill in the House, H.R. 3041, are an important step towards ensuring that the Department of Homeland Security's Privacy Officer has all the tools needed to carry out the mission Congress envisioned for the office when it created the Department of Homeland Security (''DHS''). The POWER Act will allow the Privacy Officer to better protect the privacy rights of all Americans by providing important oversight of DHS, which handles extensive amounts of sensitive personal information on Americans.

The original Congressional intention of the DHS Privacy Officer's authority has not yet been achieved. The Homeland Security Act of 2002 mandated the creation of a senior official to assume responsibility for DHS privacy policies. Specifically, this official is to assure that new technologies do not erode the personal privacy of Americans, evaluate new proposals concerning the use of personal data, assure that DHS is in full compliance with the Privacy Act of 1974, and to report to Congress on an annual basis any activities that impact privacy including ''complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.''

Congress, however, failed to endow this position with the necessary investigative powers necessary to fulfill these duties. Currently, the Privacy Officer must rely on voluntary submission of information to conduct investigations. For example, when the Privacy Officer attempted to investigate the disclosure of JetBlue passenger information by the Transportation Security Administration to the Department of Defense, its requests for information were repeatedly rebuffed preventing a comprehensive investigation. The shortcomings of this process prevent the Privacy Officer from being an effective advocate for the privacy rights of Americans.

The POWER Act addresses these problems by providing the Privacy Officer with the tools and independence necessary to conduct investigations and thereby fulfill the duties charged to the position by Congress in 2002. This legislation empowers the Privacy Officer to access all records deemed necessary, undertake any investigation deemed appropriate, subpoena documents, and obtain sworn testimony. This legislation also directs the Privacy Officer to submit reports directly to Congress without prior amendment by other Department officials, helping to protect the position from internal censorship.

The POWER Act is an important piece of legislation to help ensure that the privacy rights of Americans are not being violated by their own government by providing crucial internal oversight. We commend you for introducing this important piece of legislation, the Privacy Officer With Enhanced

Rights Act, and pledge to work with you to ensure its passage.

Sincerely,

CAROLINE FREDRICKSON,
*Director.*
TIMOTHY SPARAPANI,
*Legislative Counsel.*

---

By Mr. DODD (for himself, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. LAUTENBERG, Mr. SARBANES, Mr. AKAKA, Mr. KERRY, Ms. LANDRIEU, and Mr. MENENDEZ):

S. 2828. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senators KENNEDY, REED, CLINTON, SARBANES, AKAKA, LAUTENBERG, KERRY, LANDRIEU and MENENDEZ to introduce the Student Bill of Rights. This bill would ensure that every child in America has an equal opportunity to receive a good education.

The Student Bill of Rights would achieve this goal by providing America's children with the key components of a solid education. These components include highly qualified teachers, challenging curricula, small classes, current textbooks, quality libraries, and up-to-date technology.

Currently, Federal law requires that schools within the same district provide comparable educational services. The Student Bill of Rights would extend that basic guarantee of equal opportunity to the State level by requiring comparability of resources across school districts within a State.

Over 50 years ago, Brown v. Board of Education struck down segregation in law. Over 50 years later, we know that just because there is no segregation in law does not mean that it does not persist. Today, our education system remains largely separate and unequal.

All too often, whether an American child is taught by a high quality teacher, has access to the best courses and instructional materials, goes to school in a new, modern building, and otherwise benefits from educational resources that have been shown to be essential to a quality education still depends on where the child's family can afford to live. In fact, the United States ranks at the bottom among developed countries in the disparity in the quality of schools available to wealthy and low-income children. This gap is simply unacceptable, and it is why the Student Bill of Rights is so important to our children's ability to gain the skills they need to be responsible, participating citizens in our diverse democracy, and to compete and succeed in the global economy.

Of course, factors besides resources are also important to academic achievement—supportive parents, motivated peers, and positive role models in the community, just to name a few. But at the same time, we also know that adequate resources are vital to providing students with the opportunity to receive a solid education.

This bill is entirely consistent with America's historical commitment to equal opportunity. That is why 42 Senators voted for similar legislation in the 107th Congress. On the other hand, it would be inconsistent with America's principles to tolerate an educational system that provides meaningful educational opportunities for just a select few.

The quality of a child's education should not be determined by his or her ZIP code. The Student Bill of Rights will help ensure that each and every child gets a decent education, and in turn, an equal opportunity for a successful future.

Mr. President, I hope that my colleagues will join me in supporting the Student Bill of Rights and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2828

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Student Bill of Rights''.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:



**SEC. 3. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and to achieve the historical aspiration to be one Nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of State public school systems that do not meet the requirements of section 101(a), in which high-quality public schools typically serve high-income communities and poor-quality schools typically serve low-income, urban, rural, and minority communities.

(2) In 2005, the National Academies found in their report ''Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future'' that the inadequate preparation of kindergarten through grade 12 students in science and mathematics, including the significant lack of teachers qualified to teach these subjects, threatens the economic prosperity of the United States. When students do not receive quality mathematics and science preparation in kindergarten through grade 12, they are not prepared to take advanced courses in these subjects at the postsecondary level, leaving the United States with a critical shortage of scientists and engineers—a shortfall being filled by professionals from other countries.

(3) There exists in the States a significant educational opportunity gap for low-income, urban, rural, and minority students characterized by the following:

(A) Continuing disparities within States in students' access to the fundamentals of educational opportunity described in section 102.

(B) Highly differential educational expenditures (adjusted for cost and need) among school districts within States.

(C) Radically differential educational achievement among students in school districts within States as measured by the following:

(i) Achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(ii) Advanced placement courses taken.

(iii) SAT and ACT test scores.

(iv) Dropout rates and graduation rates.

(v) College-going and college-completion rates.

(4) As a consequence of this educational opportunity gap, the quality of a child's education depends largely upon where the child's family can afford to live, and the detriments of lower quality education are imposed particularly on—

(A) children from low-income families;

(B) children living in urban and rural areas; and

(C) minority children.

(5) Since 1785, Congress, exercising the power to admit new States under section 3 of article IV of the Constitution (and previously, the Congress of the Confederation of States under the Articles of Confederation), has imposed upon every State, as a fundamental condition of the State's admission, that the State provide for the establishment and maintenance of systems of public schools open to all children in such State.

(6) Over the years since the landmark ruling in Brown v. Board of Education, 347 U.S. 483, 493 (1954), when a unanimous Supreme Court held that ''the opportunity of an education . . . , where the State has undertaken to provide it, is a right which must be made available to all on equal terms'', courts in 44 States have heard challenges to the establishment, maintenance, and operation of State public school systems that are separate and not educationally adequate.

(7) In 1970, the Presidential Commission on School Finance found that significant disparities in the distribution of educational resources existed among school districts within States because the States relied too significantly on local district financing for educational revenues, and that reforms in systems of school financing would increase the Nation's ability to serve the educational needs of all children.

(8) In 1999, the National Research Council of the National Academy of Sciences published a report entitled ''Making Money Matter, Financing America's Schools'', which found that the concept of funding adequacy, which moves beyond the more traditional concepts of finance equity to focus attention

on the sufficiency of funding for desired educational outcomes, is an important step in developing a fair and productive educational system.

(9) In 2001, the Executive Order establishing the President's Commission on Educational Resource Equity declared, ''A quality education is essential to the success of every child in the 21st century and to the continued strength and prosperity of our Nation. . . . [L]ong-standing gaps in access to educational resources exist, including disparities based on race and ethnicity.'' (Exec. Order No. 13190, 66 Fed. Reg. 5424 (2001)).

(10) According to the Secretary of Education, as stated in a letter (with enclosures) from the Secretary to States dated January 19, 2001—

(A) racial and ethnic minorities continue to suffer from lack of access to educational resources, including ''experienced and qualified teachers, adequate facilities, and instructional programs and support, including technology, as well as . . . the funding necessary to secure these resources''; and

(B) these inadequacies are ''particularly acute in high-poverty schools, including urban schools, where many students of color are isolated and where the effect of the resource gaps may be cumulative. In other words, students who need the most may often receive the least, and these students often are students of color.''.

(11) In the amendments made by the No Child Left Behind Act of 2001, Congress—

(A)(i) required each State to establish standards and assessments in mathematics, reading or language arts, and science; and

(ii) required schools to ensure that all students are proficient in mathematics, reading or language arts, and science not later than 12 years after the end of the 2001–2002 school year, and held schools accountable for the students' progress; and

(B) required each State to describe how the State will help local educational agencies and schools to develop the capacity to improve student academic achievement.

(12) The standards and accountability movement will succeed only if, in addition to standards and accountability, all schools have access to the educational resources necessary to enable students to achieve.

(13) Raising standards without ensuring access to educational resources may in fact exacerbate achievement gaps and set children up for failure.

(14) According to the World Economic Forum's Global Competitiveness Report 2001–2002, the United States ranks last among developed countries in the difference in the quality of schools available to rich and poor children.

(15) The persistence of pervasive inadequacies in the quality of education provided by State public school systems effectively deprives millions of children throughout the United States of the opportunity for an education adequate to enable the children to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(16) Each State government has ultimate authority to determine every important aspect and priority of the public school system that provides elementary and secondary education to children in the State, including whether students throughout the State have access to the fundamentals of educational opportunity described in section 102.

(17) Because a well educated populace is critical to the Nation's political and economic well-being and national security, the Federal Government has a substantial interest in ensuring that States provide a high-quality education by ensuring that all students have access to the fundamentals of educational opportunity described in section 102 to enable the students to succeed academically and in life.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To further the goals of the Elementary and Secondary Education Act of 1965 (as amended by the No Child Left Behind Act of 2001), by holding States accountable for providing all students with access to the fundamentals of educational opportunity described in section 102.

(2) To ensure that all students in public elementary schools and secondary schools receive educational opportunities that enable such students to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(3) To end the pervasive pattern of States maintaining public school systems that do not meet the requirements of section 101(a).

## TITLE I—ACCESS TO EDUCATIONAL OPPORTUNITY

### SEC. 101. STATE PUBLIC SCHOOL SYSTEMS.

(a) REQUIREMENTS.—Each State receiving Federal financial assistance for elementary or secondary education shall ensure that the State's public school system provides all students within the State with an education that enables the students to acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice, to meet challenging student academic achievement standards, and to be able to compete and succeed in a global economy, through—

(1) the provision of fundamentals of educational opportunity described in section 102, at adequate or ideal levels as defined by the State under section 201(a)(1)(A) to students at each public elementary school and secondary school in the State;

(2) the provision of educational services in school districts that receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) that are, taken as a whole, at least comparable to educational services provided in school districts not receiving such funds; and

(3) compliance with any final Federal or State court order in any matter concerning the adequacy or equitableness of the State's public school system.

(b) DETERMINATIONS CONCERNING STATE PUBLIC SCHOOL SYSTEMS.—Not later than October 1 of each year, the Secretary shall determine whether each State maintains a public school system that meets the requirements of subsection (a). The Secretary may make a determination that a State public school system does not meet such requirements only after providing notice and an opportunity for a hearing.

(c) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the determinations made under subsection (b).

### SEC. 102. FUNDAMENTALS OF EDUCATIONAL OPPORTUNITY.

The fundamentals of educational opportunity are the following:

(1) HIGHLY QUALIFIED TEACHERS, PRINCIPALS, AND ACADEMIC SUPPORT PERSONNEL.—

(A) HIGHLY QUALIFIED TEACHERS.—Instruction from highly qualified teachers in core academic subjects.

(B) HIGHLY QUALIFIED PRINCIPALS.—Leadership, management, and guidance from principals who meet State certification standards.

(C) HIGHLY QUALIFIED ACADEMIC SUPPORT PERSONNEL.—Necessary additional academic support in reading or language arts, mathematics, and other core academic subjects from personnel who meet applicable State standards.

(2) RIGOROUS ACADEMIC STANDARDS, CURRICULA, AND METHODS OF INSTRUCTION.—Rigorous academic standards, curricula, and methods of instruction, as measured by the extent to which each school district succeeds in providing high-quality academic standards, curricula, and methods of instruction to students in each public elementary school and secondary school within the district.

(3) SMALL CLASS SIZES.—Small class sizes, as measured by—

(A) the average class size and the range of class sizes; and

(B) the percentage of elementary school classes with 17 or fewer students.

(4) TEXTBOOKS, INSTRUCTIONAL MATERIALS, AND SUPPLIES.—Textbooks, instructional materials, and supplies, as measured by—

(A) the average age and quality of textbooks, instructional materials, and supplies used in core academic subjects; and

(B) the percentage of students who begin the school year with school-issued textbooks, instructional materials, and supplies.

(5) LIBRARY RESOURCES.—Library resources, as measured by—

(A) the size and qualifications of the library's staff, including whether the library is staffed by a full-time librarian certified under applicable State standards;

(B) the size (relative to the number of students) and quality (including age) of the library's collection of books and periodicals; and

(C) the library's hours of operation.

(6) SCHOOL FACILITIES AND COMPUTER TECHNOLOGY.—

(A) QUALITY SCHOOL FACILITIES.—Quality school facilities, as measured by—

(i) the physical condition of school buildings and major school building features;

(ii) environmental conditions in school buildings; and

(iii) the quality of instructional space.

(B) COMPUTER TECHNOLOGY.—Computer technology, as measured by—

(i) the ratio of computers to students;

(ii) the quality of computers and software available to students;

(iii) Internet access;

(iv) the quality of system maintenance and technical assistance for the computers; and

(v) the number of computer laboratory courses taught by qualified computer instructors.

(7) QUALITY GUIDANCE COUNSELING.—Qualified guidance counselors, as measured by the ratio of students to qualified guidance counselors who have been certified under an applicable State or national program.

## TITLE II—STATE ACCOUNTABILITY

### SEC. 201. STATE ACCOUNTABILITY PLAN.

(a) GENERAL PLAN.—

(1) CONTENTS.—Each State receiving Federal financial assistance for elementary and secondary education shall annually submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators, other staff, and parents, that contains the following:

(A) A description of 2 levels of high access (adequate and ideal) to each of the fundamentals of educational opportunity described in section 102 that measure how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(B) A description of a third level of access (basic) to each of the fundamentals of educational opportunity described in section 102 that measures how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(C) A description of the level of access of each school district, public elementary school, and public secondary school in the State to each of the fundamentals of educational opportunity described in section 102, including identification of any such schools that lack high access (as described in subparagraph (A)) to any of the fundamentals.

(D) An estimate of the additional cost, if any, of ensuring that the system meets the requirements of section 101(a).

(E) Information stating the percentage of students in each school district, public elementary school, and public secondary school in the State that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)).

(F) Information stating whether each school district, public elementary school, and public secondary school in the State is making adequate yearly progress, as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)).

(G)(i) For each school district, public elementary school, and public secondary school in the State, information stating—

(I) the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such school district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(2) LEVELS OF ACCESS.—For purposes of the plan submitted under paragraph (1)—

(A) in defining basic, adequate, and ideal levels of access to each of the fundamentals of educational opportunity, each State shall consider, in addition to the factors described in section 102, the access available to students in the highest-achieving decile of public elementary schools and secondary schools, the unique needs of low-income, urban and rural, and minority students, and other educationally appropriate factors; and

(B) the levels of access described in subparagraphs (A) and (B) of paragraph (1) shall be aligned with the challenging academic content standards, challenging student academic achievement standards, and high-quality academic assessments required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(3) INFORMATION.—The State shall annually disseminate to parents, in an understandable and uniform format, the descriptions, estimate, and information described in paragraph (1).

(b) ACCOUNTABILITY AND REMEDIATION.—

(1) ACCOUNTABILITY.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(1), the plan submitted under subsection (a)(1) shall—

(A) demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that the State makes adequate yearly progress under this Act (as defined by the State in a manner that annually reduces the number of public elementary schools and secondary schools in the State without high access (as described in subsection (a)(1)(A)) to each of fundamentals of educational opportunity described in section 102);

(B) demonstrate, based on the levels of access described in paragraph (1) what constitutes adequate yearly progress of the State under this Act toward providing all students with high access to the fundamentals of educational opportunity described in section 102; and

(C) ensure—

(i) the establishment of a timeline for that adequate yearly progress that includes interim yearly goals for the reduction of the number of public elementary schools and secondary schools in the State without high access to each of the fundamentals of educational opportunity described in section 102; and

(ii) that not later than 12 years after the end of the 2005–2006 school year, each public elementary school in the State shall have access to each of the fundamentals of educational opportunity described in section 102.

(2) REMEDIATION.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(2), not later than 1 year after the Secretary makes the determination, the State shall include in the plan submitted under subsection (a)(1) a strategy to remediate the conditions that caused the Secretary to make such determination, not later than the end of the second school year beginning after submission of the plan.

(c) AMENDMENTS.—A State may amend the plan submitted under subsection (a)(1) to improve the plan or to take into account significantly changed circumstances.

(d) DISAPPROVAL.—The Secretary may disapprove the plan submitted under subsection (a)(1) (or an amendment to such a plan) if the Secretary determines, after notice and opportunity for hearing, that the plan (or amendment) is inadequate to meet the requirements described in subsections (a) and (b).

(e) WAIVER.—

(1) IN GENERAL.—A State may request, and the Secretary may grant, a waiver of the requirements of subsections (a) and (b) for 1 year for exceptional circumstances, such as a precipitous decrease in State revenues, or another circumstance that the Secretary determines to be exceptional, that prevents a State from complying with the requirements of subsections (a) and (b).

(2) CONTENTS OF WAIVER REQUEST.—A State that requests a waiver under paragraph (1) shall include in the request—

(A) a description of the exceptional circumstance that prevents the State from complying with the requirements of subsections (a) and (b); and

(B) a plan that details the manner in which the State will comply with such requirements by the end of the waiver period.

**SEC. 202. CONSEQUENCES OF FAILURE TO MEET REQUIREMENTS.**

(a) INTERIM YEARLY GOALS.—

(1) IN GENERAL.—For a fiscal year and a State described in section 201(b)(1), the Secretary shall withhold from the State 2.75 percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs, for each covered goal that the Secretary determines the State is not meeting during that year.

(2) DEFINITION.—In this subsection, the term ''covered goal'', used with respect to a fiscal year, means an interim yearly goal described in section 201(b)(1)(C)(i) that is applicable to that year or a prior fiscal year.

(b) CONSEQUENCES OF NONREMEDIATION.—Notwithstanding any other provision of law, if the Secretary determines that a State required to include a strategy under section 201(b)(2) continues to maintain a public school system that does not meet the requirements of section 101(a)(2) at the end of the second school year described in section 201(b)(2), the Secretary shall withhold from the State not more than 33⅓ percent of funds otherwise available to the State for the administration of programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) until the Secretary determines that the State maintains a public school system that meets the requirements of section 101(a)(2).

(c) CONSEQUENCES OF NONCOMPLIANCE WITH COURT ORDERS.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(3), the Secretary shall withhold from the State not more than 33⅓ percent of funds otherwise available to the State for the administration of programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(d) DISPOSITION OF FUNDS WITHHELD.—

(1) DETERMINATION.—Not later than 1 year after the Secretary withholds funds from a State under this section, the Secretary shall determine whether the State has corrected the condition that led to the withholding.

(2) DISPOSITION.—

(A) CORRECTION.—If the Secretary determines under paragraph (1), that the State has corrected the condition that led to the withholding, the Secretary shall make the withheld funds available to the State to use for the original purpose of the funds during 1 or more fiscal years specified by the Secretary.

(B) NONCORRECTION.—If the Secretary determines under paragraph (1), that the State has not corrected the condition that led to the withholding, the Secretary shall allocate the withheld funds to public school districts, public elementary schools, or public secondary schools in the State that are most adversely affected by the condition that led to the withholding, to enable the districts or schools to correct the condition during 1 or more fiscal years specified by the Secretary.

(3) AVAILABILITY.—Amounts made available or allocated under subparagraph (A) or (B) of paragraph (2) shall remain available during the fiscal years specified by the Secretary under that subparagraph.

## TITLE III—REPORT TO CONGRESS AND THE PUBLIC

**SEC. 301. ANNUAL REPORT ON STATE PUBLIC SCHOOL SYSTEMS.**

(a) ANNUAL REPORT TO CONGRESS.—Not later than October 1 of each year, beginning the year after completion of the first full school year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes a full and complete analysis of the public school system of each State.

(b) CONTENTS OF REPORT.—The analysis conducted under subsection (a) shall include the following:

(1) PUBLIC SCHOOL SYSTEM INFORMATION.—The following information related to the public school system of each State:

(A) The number of school districts, public elementary schools, public secondary schools, and students in the system.

(B)(i) For each such school district and school—

(I) information stating the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students, disaggregated by groups described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(C) The average per-pupil expenditure (both in actual dollars and adjusted for cost and need) for the State and for each school district in the State.

(D) Each school district's decile ranking as measured by achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(E) For each school district, public elementary school, and public secondary school—

(i) the level of access (as described in section 201(a)(1)) to each of the fundamentals of educational opportunity described in section 102;

(ii) the percentage of students that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)); and

(iii) whether the school district or school is making adequate yearly progress—

(I) as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); and

(II) as defined by the State under section 201(b)(1)(A).

(F) For each State, the number of public elementary schools and secondary schools that lack, and names of each such school that lacks, high access (as described in section 201(a)(1)(A)) to any of the fundamentals of educational opportunity described in section 102.

(G) For the year covered by the report, a summary of any changes in the data required in subparagraphs (A) through (F) for each of the preceding 3 years (which may be based on such data as are available, for the first 3 reports submitted under subsection (a)).

(H) Such other information as the Secretary considers useful and appropriate.

(2) STATE ACTIONS.—For each State that the Secretary determines under section 101(b) maintains a public school system that fails to meet the requirements of section 101(a), a detailed description and evaluation of the success of any actions taken by the State, and measures proposed to be taken by the State, to meet the requirements.

(3) STATE PLANS.—A copy of each State's most recent plan submitted under section 201(a)(1).

(4) RELATIONSHIP BETWEEN COMPLIANCE AND ACHIEVEMENT.—An analysis of the relationship between meeting the requirements of section 101(a) and improving student academic achievement, as measured on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(c) SCOPE OF REPORT.—The report required under subsection (a) shall cover the school year ending in the calendar year in which the report is required to be submitted.

(d) SUBMISSION OF DATA TO SECRETARY.—Each State receiving Federal financial assistance for elementary and secondary education shall submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, such data as the Secretary determines to be necessary to make a determination under section 101(b) and to submit the report under this section. Such data shall include the information used to measure the State's success in providing the fundamentals of educational opportunity described in section 102.

(e) FAILURE TO SUBMIT DATA.—If a State fails to submit the data that the Secretary determines to be necessary to make a determination under section 101(b) regarding whether the State maintains a public school system that meets the requirements of section 101(a)—

(1) such State's public school system shall be deemed not to have met the applicable requirements until the State submits such data and the Secretary is able to make such determination under section 101(b); and

(2) the Secretary shall provide, to the extent practicable, the analysis required in subsection (a) for the State based on the best data available to the Secretary.

(f) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the report required under subsection (a).

## TITLE IV—REMEDY

**SEC. 401. CIVIL ACTION FOR ENFORCEMENT.**

A student or parent of a student aggrieved by a violation of this Act may bring a civil action against the appropriate official in an appropriate Federal district court seeking declaratory or injunctive relief to enforce the requirements of this Act, together with reasonable attorney's fees and the costs of the action.

## TITLE V—GENERAL PROVISIONS

**SEC. 501. DEFINITIONS.**

In this Act:

(1) REFERENCED TERMS.—The terms ''elementary school'', ''secondary school'', ''local educational agency'', ''highly qualified'', ''core academic subjects'', ''parent'', and ''average per-pupil expenditure'' have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—The term ''Federal elementary and secondary education programs'' means programs providing Federal financial assistance for elementary or secondary education, other than programs under the following provisions of law:

(A) The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(C) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(D) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(3) PUBLIC SCHOOL SYSTEM.—The term ''public school system'' means a State's system of public elementary and secondary education.

(4) STATE.—The term ''State'' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

**SEC. 502. RULEMAKING.**

The Secretary may prescribe regulations to carry out this Act.

**SEC. 503. CONSTRUCTION.**

Nothing in this Act shall be construed to require a jurisdiction to increase its property tax or other tax rates or to redistribute revenues from such taxes.

---

By Ms. CANTWELL (for herself, Mr. REID, Mr. DURBIN, Ms. MIKULSKI, Mr. DODD, Mr. MENENDEZ, Mr. CARPER, Mr. DAYTON, Mr. KERRY, Mr. REED, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. SALAZAR, Mr. SCHUMER, Mr. DORGAN, Mrs. CLINTON, Mr. LEAHY, Mr. JOHNSON, Mrs. BOXER, Mr. LIEBERMAN, Mr. BYRD, Ms. STABENOW, Mr. LEVIN, and Mr. BIDEN):

S. 2829. A bill to reduce the addiction of the United States to oil, to ensure near-term energy affordability and empower American families, to accelerate clean fuels and electricity, to provide government leadership for clean and secure energy, to secure a reliable, affordable, and sustainable energy future, and for other purposes; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise to introduce legislation that seeks to put America squarely on the path toward energy security for the 21st Century. Today, I am joined by a number of my colleagues in introducing the Clean Energy Development for a Growing Economy, or Clean EDGE, Act.

Mr. President, this legislation is a sweeping proposal that incorporates the ideas of many of my colleagues on this side of the aisle. It is our attempt to move America forward, on a pressing issue that—as we've said many times before—poses one of the greatest national security, economic and environmental challenges faced by our generation. I am talking about the issue of energy independence, and what it will take to put America on the right track.

The legislation we are presenting today is the result of a good deal of work within our caucus. As a member of the Senate Energy Committee, I speak from some experience when I say that developing a cohesive, national approach to energy policy is quite difficult. That is because, in so many instances, there are important issues of regional diversity that can divide us.

Instead of immediately succumbing to those divisions, what we did when we began to work on this legislation was to start with a goal. Like the Manhattan Project that established America as the world's first nuclear power, and the Apollo Project that ensured America won the race to the moon, we recognized that initiatives of this magnitude must begin with a goal. When America sets a goal, America will achieve it. It takes leadership and resolve, and it takes the shared commitment of individual citizens to make it a truly national effort. But make no mistake: the people of the United States will rise to the challenge.

Today, we can no longer ignore the enormous cost of America's dependence on foreign oil. It has become a crisis for consumers; it poses an imminent

risk to our national security; and it jeopardizes our long-term economic competitiveness. That is why we believe that America must strive for an aggressive goal: to reduce our national petroleum consumption equivalent to 40 percent of our projected imports by 2020, or about 6 million barrels of oil a day.

Next, we set out to define agreed-upon principles about the best ways we could jumpstart our Nation's effort to achieve this goal. I am proud to say that we were able to achieve a good deal of consensus on these principles. Today, we sent the President a letter outlining them, which gained the signatures of 42 of my colleagues. These principles boil down to this:

The United States must launch an aggressive effort designed to ensure that an increasing number of new vehicles sold in America can run on alternative fuels—starting with 25 percent in 2010—and must launch a bold initiative to invest in the infrastructure needed to promote real competition at the gas pump.

The United States must ensure that consumers are protected from gasoline price-gouging and energy market manipulation.

The United States must lessen its reliance on fossil fuels and take steps to curb greenhouse gas emissions by diversifying electricity sources to include more renewable resources.

The United States Governmment—our Nation's single largest energy consumer—must help lead the transition by adopting the best available fuel efficiency and alternative vehicle technologies to reduce its petroleum consumption by 20 percent over the next 5 years, and by 40 percent by 2020.

The United States must level the playing field for new renewable and energy efficiency technologies by providing incentives for consumers and manufacturers to develop and deploy the next generation of fuel efficient vehicles, and by ensuring that major oil companies pay their fair share in taxes and royalties owed to the American public.

These are the principles that guided us as we crafted the Clean EDGE Act. This legislation is a starting point, as we try to advance the dialogue about what it will take to put America on the path toward energy independence.

There are provisions contained in this bill that we know can garner broad bipartisan support. There are others that may not have been possible to enact, before America started waking up to the costs of our energy independence. And there are other ideas that require broader debate and close scrutiny within the Senate Committees of jurisdiction. The Senate should work its will.

But once again, that is the point of this legislation: to start the process; to jump-start the debate, and outline a vision of where this country needs to go to secure our future.

As we have come together on this side of the aisle in recognition of the need to address the pressing issue of energy security, I know I speak for a number of my colleagues when I say I believe it is possible to come together in a bipartisan manner to pass energy legislation this summer. It is possible, if the Senate decides to put politics and partisan rancor aside. We can roll up our sleeves and get to work on crafting a real energy security plan that brings out the best in America. That process would also bring out the best in the Senate.

So I am proud to introduce this legislation today, and look forward to working with my colleagues across the aisle in further developing an energy independence plan for America.

## FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

The bill (S. 2803), as introduced on Tuesday, May 16, 2006, is as follows:

S. 2803

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Mine Improvement and New Emergency Response Act of 2006'' or the ''MINER Act''.

**SEC. 2. EMERGENCY RESPONSE.**

Section 316 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 876) is amended—

(1) in the section heading by adding at the end the following: ''AND EMERGENCY RESPONSE PLANS'';

(2) by striking ''Telephone'' and inserting ''(a) IN GENERAL.—Telephone''; and

(3) by adding at the end the following:

''(b) ACCIDENT PREPAREDNESS AND RESPONSE.—

''(1) IN GENERAL.—Each underground coal mine operator shall carry out on a continuing basis a program to improve accident preparedness and response at each mine.

''(2) RESPONSE AND PREPAREDNESS PLAN.—

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, each underground coal mine operator shall develop and adopt a written accident response plan that complies with this subsection with respect to each mine of the operator, and periodically update such plans to reflect changes in operations in the mine, advances in technology, or other relevant considerations. Each such operator shall make the accident response plan available to the miners and the miners' representatives.

''(B) PLAN REQUIREMENTS.—An accident response plan under subparagraph (A) shall—

''(i) provide for the evacuation of all individuals endangered by an emergency; and

''(ii) provide for the maintenance of individuals trapped underground in the event that miners are not able to evacuate the mine.

''(C) PLAN APPROVAL.—The accident response plan under subparagraph (A) shall be subject to review and approval by the Secretary. In determining whether to approve a particular plan the Secretary shall take into consideration all comments submitted by miners or their representatives. Approved plans shall—

''(i) afford miners a level of safety protection at least consistent with the existing standards, including standards mandated by law and regulation;

''(ii) reflect the most recent credible scientific research;

''(iii) be technologically feasible, make use of current commercially available technology, and account for the specific physical characteristics of the mine; and

''(iv) reflect the improvements in mine safety gained from experience under this Act and other worker safety and health laws.

''(D) PLAN REVIEW.—The accident response plan under subparagraph (A) shall be reviewed periodically, but at least every 6 months, by the Secretary. In such periodic reviews, the Secretary shall consider all comments submitted by miners and miners' representatives and intervening advancements in science and technology that could be implemented to enhance miners' ability to evacuate or otherwise survive in an emergency.

''(E) PLAN CONTENT-GENERAL REQUIREMENTS.—To be approved under subparagraph (C), an accident response plan shall include the following:

''(i) POST-ACCIDENT COMMUNICATIONS.—The plan shall provide for a redundant means of communication with the surface for persons underground, such as secondary telephone or equivalent two-way communication.

''(ii) POST-ACCIDENT TRACKING.—Consistent with commercially available technology and with the physical constraints, if any, of the mine, the plan shall provide for above ground personnel to determine the current, or immediately pre-accident, location of all underground personnel. Any system so utilized shall be functional, reliable, and calculated to remain serviceable in a post-accident setting.

''(iii) POST-ACCIDENT BREATHABLE AIR.—The plan shall provide for—

''(I) emergency supplies of breathable air for individuals trapped underground sufficient to maintain such individuals for a sustained period of time;

''(II) caches of self-rescuers providing in the aggregate not less than 2 hours for each miner to be kept in escapeways from the deepest work area to the surface at a distance of no further than an average miner could walk in 30 minutes;

''(III) a maintenance schedule for checking the reliability of self rescuers, retiring older self-rescuers first, and introducing new self-rescuer technology, such as units with interchangeable air or oxygen cylinders not requiring doffing to replenish airflow and units with supplies of greater than 60 minutes, as they are approved by the Administration and become available on the market; and

''(IV) training for each miner in proper procedures for donning self-rescuers, switching from one unit to another, and ensuring a proper fit.

''(iv) POST-ACCIDENT LIFELINES.—The plan shall provide for the use of flame-resistant directional lifelines or equivalent systems in escapeways to enable evacuation. The flame-resistance requirement of this clause shall apply upon the replacement of existing lifelines, or, in the case of lifelines in working sections, upon the earlier of the replacement of such lifelines or 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

''(v) TRAINING.—The plan shall provide a training program for emergency procedures described in the plan which will not diminish the requirements for mandatory health and safety training currently required under section 115.

''(vi) LOCAL COORDINATION.—The plan shall set out procedures for coordination and communication between the operator, mine rescue teams, and local emergency response personnel and make provisions for familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.

''(F) PLAN CONTENT-SPECIFIC REQUIREMENTS.—

''(i) IN GENERAL.—In addition to the content requirements contained in subparagraph (E), and subject to the considerations contained in subparagraph (C), the Secretary may make additional plan requirements with respect to any of the content matters.

''(ii) POST ACCIDENT COMMUNICATIONS.—Not later than 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, a plan shall, to be approved, provide for post accident communication between underground and surface personnel via a wireless two-way medium, and provide for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground or set forth within the plan the reasons such provisions can not be adopted. Where such plan sets forth the reasons such provisions can not be adopted, the plan shall also set forth the operator's alternative means of compliance. Such alternative shall approximate, as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system referred to in this subpart.

''(G) PLAN DISPUTE RESOLUTION.—

''(i) IN GENERAL.—Any dispute between the Secretary and an operator with respect to the content of the operator's plan or any refusal by the Secretary to approve such a plan shall be resolved on an expedited basis.

''(ii) DISPUTES.—In the event of a dispute or refusal described in clause (i), the Secretary shall issue a technical citation which shall be immediately referred to a Department of Labor Administrative Law Judge. The Secretary and the operator shall submit all relevant material regarding the dispute to the Administrative Law Judge within 15 days of the date of the referral. The Administrative Law Judge shall render his or her decision with respect to the plan content dispute within 15 days of the receipt of the submission.

''(iii) FURTHER APPEALS.—A party adversely affected by a decision under clause (ii) may pursue all further available appeal rights with respect to the citation involved, except that inclusion of the disputed provision in the plan will not be limited by such appeal unless such relief is requested by the operator and permitted by the Administrative Law Judge.

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to modify the authority of the Secretary to issue citations or orders as provided for in this Act.

''(H) MAINTAINING PROTECTIONS FOR MINERS.—Notwithstanding any other provision of this Act, nothing in this section, and no response and preparedness plan developed under this section, shall be approved if it reduces the protection afforded miners by an existing mandatory health or safety standard.''.

**SEC. 3. INCIDENT COMMAND AND CONTROL.**

Title I of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 811 et seq.) is amended by adding at the end the following:

**''SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RESCUE OPERATIONS.**

''(a) IN GENERAL.—No person shall bring an action against any covered individual or his or her regular employer for property damage or an injury (or death) sustained as a result of carrying out activities relating to mine accident rescue or recovery operations. This subsection shall not apply where the action that is alleged to result in the property damages or injury (or death) was the result of gross negligence, reckless conduct, or illegal conduct or, where the regular employer (as such term is used in this Act) is the operator of the mine at which the rescue activity takes place. Nothing in this section shall be construed to preempt State workers' compensation laws

''(b) COVERED INDIVIDUAL.—For purposes of subsection (a), the term 'covered individual' means an individual—

''(1) who is a member of a mine rescue team or who is otherwise a volunteer with respect to a mine accident; and

''(2) who is carrying out activities relating to mine accident rescue or recovery operations.

''(c) REGULAR EMPLOYER.—For purposes of subsection (a), the term 'regular employer' means the entity that is the covered employee's legal or statutory employer pursuant to applicable State law.''.

**SEC. 4. MINE RESCUE TEAMS.**

Section 115(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 825(e)) is amended—

(1) by inserting ''(1)'' after the subsection designation; and

(2) by adding at the end the following:

''(1)(A) The Secretary shall issue regulations with regard to mine rescue teams which shall be finalized and in effect not later than 18 months after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

''(B) Such regulations shall provide for the following:

''(i) That such regulations shall not be construed to waive operator training requirements applicable to existing mine rescue teams.

''(ii) That the Mine Safety and Health Administration shall establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams.

''(iii)(I) That the operator of each underground coal mine with more than 36 employees—

''(aa) have an employee knowledgeable in mine emergency response who is employed at the mine on each shift at each underground mine; and

''(bb) make available two certified mine rescue teams whose members—

''(AA) are familiar with the operations of such coal mine;

''(BB) participate at least annually in two local mine rescue contests;

''(CC) participate at least annually in mine rescue training at the underground coal mine covered by the mine rescue team; and

''(DD) are available at the mine within one hour ground travel time from the mine rescue station.

''(II)(aa) For the purpose of complying with subclause (I), an operator shall employ one team that is either an individual mine site mine rescue team or a composite team as provided for in item (bb).

''(bb) The following options may be used by an operator to comply with the requirements of item (aa):

''(AA) An individual mine-site mine rescue team.

''(BB) A multi-employer composite team that is made up of team members who are knowledgeable about the operations and ventilation of the covered mines and who train on a semi-annual basis at the covered underground coal mine—

''(aaa) which provides coverage for multiple operators that have team members which include at least two active employees from each of the covered mines;

''(bbb) which provides coverage for multiple mines owned by the same operator which members include at least two active employees from each mine; or

''(ccc) which is a State-sponsored mine rescue team comprised of at least two active employees from each of the covered mines.

''(CC) A commercial mine rescue team provided by contract through a third-party vendor or mine rescue team provided by another coal company, if such team—

''(aaa) trains on a quarterly basis at covered underground coal mines;

''(bbb) is knowledgeable about the operations and ventilation of the covered mines; and

''(ccc) is comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.

''(DD) A State-sponsored team made up of State employees.

''(iv) That the operator of each underground coal mine with 36 or less employees shall—

''(I) have an employee on each shift who is knowledgeable in mine emergency responses; and

''(II) make available two certified mine rescue teams whose members—

''(aa) are familiar with the operations of such coal mine;

''(bb) participate at least annually in two local mine rescue contests;

''(cc) participate at least semi-annually in mine rescue training at the underground coal mine covered by the mine rescue team;

''(dd) are available at the mine within one hour ground travel time from the mine rescue station;

''(ee) are knowledgeable about the operations and ventilation of the covered mines; and

''(ff) are comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.''.

**SEC. 5. PROMPT INCIDENT NOTIFICATION.**

(a) IN GENERAL.—Section 103(j) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 813(j)) is amended by inserting after the first sentence the following: ''For purposes of the preceding sentence, the notification required shall be provided by the operator within 15 minutes of the time at which the operator realizes that the death of an individual at the mine, or an injury or entrapment of an individual at the mine which has a reasonable potential to cause death, has occurred.''.

(b) PENALTY.—Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended—

(1) by striking ''The operator'' and inserting ''(1) The operator''; and

(2) by adding at the end the following:

''(2) The operator of a coal or other mine who fails to provide timely notification to the Secretary as required under section 103(j) (relating to the 15 minute requirement) shall be assessed a civil penalty by the Secretary of not less than $5,000 and not more than $60,000.''.

**SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.**

(a) GRANTS.—Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end the following:

''(h) OFFICE OF MINE SAFETY AND HEALTH.—

''(1) IN GENERAL.—There shall be permanently established within the Institute an Office of Mine Safety and Health which shall be administered by an Associate Director to be appointed by the Director.

''(2) PURPOSE.—The purpose of the Office is to enhance the development of new mine safety technology and technological applications and to expedite the commercial availability and implementation of such technology in mining environments.

''(3) FUNCTIONS.—In addition to all purposes and authorities provided for under this

section, the Office of Mine Safety and Health shall be responsible for research, development, and testing of new technologies and equipment designed to enhance mine safety and health. To carry out such functions the Director of the Institute, acting through the Office, shall have the authority to—

''(A) award competitive grants to institutions and private entities to encourage the development and manufacture of mine safety equipment;

''(B) award contracts to educational institutions or private laboratories for the performance of product testing or related work with respect to new mine technology and equipment; and

''(C) establish an interagency working group as provided for in paragraph (5).

''(4) GRANT AUTHORITY.—To be eligible to receive a grant under the authority provided for under paragraph (3)(A), an entity or institution shall—

''(A) submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

''(B) include in the application under subparagraph (A), a description of the mine safety equipment to be developed and manufactured under the grant and a description of the reasons that such equipment would otherwise not be developed or manufactured, including reasons relating to the limited potential commercial market for such equipment.

''(5) INTERAGENCY WORKING GROUP.—

''(A) ESTABLISHMENT.—The Director of the Institute, in carrying out paragraph (3)(D) shall establish an interagency working group to share technology and technological research and developments that could be utilized to enhance mine safety and accident response.

''(B) MEMBERSHIP.—The working group under subparagraph (A) shall be chaired by the Associate Director of the Office who shall appoint the members of the working group, which may include representatives of other Federal agencies or departments as determined appropriate by the Associate Director.

''(C) DUTIES.—The working group under subparagraph (A) shall conduct an evaluation of research conducted by, and the technological developments of, agencies and departments who are represented on the working group that may have applicability to mine safety and accident response and make recommendations to the Director for the further development and eventual implementation of such technology.

''(6) ANNUAL REPORT.—Not later than 1 year after the establishment of the Office under this subsection, and annually thereafter, the Director of the Institute shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a report that, with respect to the year involved, described the new mine safety technologies and equipment that have been studied, tested, and certified for use, and with respect to those instances of technologies and equipment that have been considered but not yet certified for use, there reasons therefore.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to enable the Institute and the Office of Mine Safety and Health to carry out this subsection.''.

**SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS.**

The Secretary of Labor shall establish a policy that—

(1) requires the temporary assignment of an individual Department of Labor official to be a liaison between the Department and the families of victims of mine tragedies involving multiple deaths;

(2) requires the Mine Safety and Health Administration to be as responsive as possible to requests from the families of mine accident victims for information relating to mine accidents; and

(3) requires that in such accidents, that the Mine Safety and Health Administration shall serve as the primary communicator with the operator, miners' families, the press and the public.

**SEC. 8. PENALTIES.**

(a) IN GENERAL.—Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' after the subsection designation; and

(B) by adding at the end the following:

''(2) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104 and section 107, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under paragraph (1) or section 105(c), shall, upon conviction, be punished by a fine of not more than $250,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than $500,000, or by imprisonment for not more than five years, or both.

''(3)(A) The minimum penalty for any citation issued under section 104(d)(1) shall be $2,000.

''(B) The minimum penalty for a failure or refusal to comply with any order issued under section 104(d)(2) shall be $4,000.

''(4) Nothing in this subsection shall be construed to prevent an operator from obtaining a review, in accordance with section 106, of an order imposing a penalty described in this subsection. If a court, in making such review, sustains the order, the court shall apply the minimum penalties required under this subsection.''; and

(2) by adding at the end of subsection (b) the following: ''Violations under this section that are deemed to be flagrant may be assessed a civil penalty of not more than $220,000. For purposes of the preceding sentence, the term 'flagrant' with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.''.

(b) REGULATIONS.—Not later than December 31, 2006, the Secretary of Labor shall promulgate final regulations with respect to the penalties provided for under the amendments made by this section.

**SEC. 9. FINE COLLECTIONS.**

Section 108(a)(1)(A) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended by inserting before the comma, the following: '', or fails or refuses to comply with any order or decision, including a civil penalty assessment order, that is issued under this Act''.

**SEC. 10. SEALING OF ABANDONED AREAS.**

Not later than 18 months after the issuance by the Mine Safety and Health Administration of a final report on the Sago Mine accident or the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, whichever occurs earlier, the Secretary of Labor shall finalize mandatory heath and safety standards relating to the sealing of abandoned areas in underground coal mines. Such health and safety standards shall provide for an increase in the 20 psi standard currently set forth in section 75.335(a)(2) of title 30, Code of Federal Regulations.

**SEC. 11. TECHNICAL STUDY PANEL.**

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.) is amended by adding at the end the following:

**''SEC. 514. TECHNICAL STUDY PANEL.**

''(a) ESTABLISHMENT.—There is established a Technical Study Panel (referred to in this section as the 'Panel') which shall provide independent scientific and engineering review and recommendations with respect to the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

''(b) MEMBERSHIP.—The Panel shall be composed of—

''(1) two individuals to be appointed by the Secretary of Health and Human Services, in consultation with the Director of the National Institute for Occupational Safety and Health and the Associate Director of the Office of Mine Safety;

''(2) two individuals to be appointed by the Secretary of Labor, in consultation with the Assistant Secretary for Mine Safety and Health; and

''(3) two individuals, one to be appointed jointly by the majority leaders of the Senate and House of Representatives and one to be appointed jointly by the minority leader of the Senate and House of Representatives, each to be appointed prior to the sine die adjournment of the second session of the 109th Congress.

''(c) QUALIFICATIONS.—Four of the six individuals appointed to the Panel under subsection (b) shall possess a masters or doctoral level degree in mining engineering or another scientific field demonstrably related to the subject of the report. No individual appointed to the Panel shall be an employee of any coal or other mine, or of any labor organization, or of any State or Federal agency primarily responsible for regulating the mining industry.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date on which all members of the Panel are appointed under subsection (b), the Panel shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

''(2) RESPONSE BY SECRETARY.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

''(e) COMPENSATION.—Members appointed to the panel, while carrying out the duties of the Panel shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 208(c) of the Public Health Service Act.''.

**SEC. 12. SCHOLARSHIPS.**

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.), as amended by section 12, is further amended by adding at the end the following:

**''SEC. 515. SCHOLARSHIPS.**

''(a) ESTABLISHMENT.—The Secretary of Education (referred to in this section as the 'Secretary'), in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall establish a program to provide scholarships to eligible individuals to increase the skilled workforce for both private sector coal mine operators and mine safety inspectors and other regulatory personnel for the Mine Safety and Health Administration.

''(b) FUNDAMENTAL SKILLS SCHOLARSHIPS.—

''(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in 2-year associate's degree programs at community colleges or other colleges and universities that focus on providing the fundamental skills and training that is of immediate use to a beginning coal miner.

''(2) SKILLS.—The skills described in paragraph (1) shall include basic math, basic health and safety, business principles, management and supervisory skills, skills related to electric circuitry, skills related to heavy equipment operations, and skills related to communications.

''(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

''(A) have a high school diploma or a GED;

''(B) have at least 2 years experience in full-time employment in mining or mining-related activities;

''(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

''(D) demonstrate an interest in working in the field of mining and performing an internship with the Mine Safety and Health Administration or the National Institute for Occupational Safety and Health Office of Mine Safety.

''(c) MINE SAFETY INSPECTOR SCHOLARSHIPS.—

''(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor's degree programs at accredited colleges or universities that provide the skills needed to become mine safety inspectors.

''(2) SKILLS.—The skills described in paragraph (1) include skills developed through programs leading to a degree in mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

''(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

''(A) have a high school diploma or a GED;

''(B) have at least 5 years experience in full-time employment in mining or mining-related activities;

''(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

''(D) agree to be employed for a period of at least 5 years at the Mine Safety and Health Administration or, to repay, on a pro-rated basis, the funds received under this program, plus interest, at a rate established by the Secretary upon the issuance of the scholarship.

''(d) ADVANCED RESEARCH SCHOLARSHIPS.—

''(1) IN GENERAL.—Under the program under subsection (a), the Secretary may award scholarships to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor's degree, masters degree, and Ph.D. degree programs at accredited colleges or universities that provide the skills needed to augment and advance research in mine safety and to broaden, improve, and expand the universe of candidates for mine safety inspector and other regulatory positions in the Mine Safety and Health Administration.

''(2) SKILLS.—The skills described in paragraph (1) include skills developed through programs leading to a degree is mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

''(3) ELIGIBILITY.—To be eligible to receive a scholarship under this subsection an individual shall—

''(A) have a bachelor's degree or equivalent from an accredited 4-year institution;

''(B) have at least 5 years experience in full-time employment in underground mining or mining-related activities; and

''(C) submit to the Secretary an application at such time, in such manner, and containing such information.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''.

**SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES.**

(a) IN GENERAL.—The National Institute of Occupational Safety and Health shall provide for the conduct of research, including field tests, concerning the utility, practicality, survivability, and cost of various refuge alternatives in an underground coal mine environment, including commercially-available portable refuge chambers.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the National Institute for Occupational Safety and Health shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the results of the research conducted under subsection (a), including any field tests.

(2) RESPONSE BY SECRETARY.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

**SEC. 14. SAGO MINE SAFETY GRANTS.**

(a) IN GENERAL.—The Secretary of Labor shall establish a program to award competitive grants for education and training to carry out the purposes of this section.

(b) PURPOSES.—It is the purpose of this section, to provide for the funding of education and training programs to better identify, avoid, and prevent unsafe working conditions in and around mines.

(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a public or private nonprofit entity; and

(2) submit to the Secretary of Labor an application at such time, in such manner, and containing such information as the Secretary may require.

(d) USE OF FUNDS.—Amounts received under a grant under this section shall be used to establish and implement education and training programs, or to develop training materials for employers and miners, concerning safety and health topics in mines, as determined appropriate by the Mine Safety and Health Administration.

(e) AWARDING OF GRANTS.—

(1) ANNUAL BASIS.—Grants under this section shall be awarded on an annual basis.

(2) SPECIAL EMPHASIS.—In awarding grants under this section, the Secretary of Labor shall give special emphasis to programs and materials that target workers in smaller mines, including training miners and employers about new Mine Safety and Health Administration standards, high risk activities, or hazards identified by such Administration.

(3) PRIORITY.—In awarding grants under this section, the Secretary of Labor shall give priority to the funding of pilot and demonstration projects that the Secretary determines will provide opportunities for broad applicability for mine safety.

(f) EVALUATION.—The Secretary of Labor shall use not less than 1 percent of the funds made available to carry out this section in a fiscal year to conduct evaluations of the projects funded under grants under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year, such sums as may be necessary to carry out this section.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 482—SUPPORTING THE GOALS OF AN ANNUAL NATIONAL TIME-OUT DAY TO PROMOTE PATIENT SAFETY AND OPTIMAL OUTCOMES IN THE OPERATING ROOM

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 482

Whereas according to an Institute of Medicine (referred to in this resolution as the ''IOM'') report entitled ''To Err is Human: Building a Safer Health System'', published in 2000, between 44,000 and 98,000 hospitalized people in the United States die each year due to medical errors, and untold thousands more suffer injury or illness as a result of preventable errors;

Whereas the IOM report recommends the establishment of a national goal of reducing the number of medical errors by 50 percent over 5 years;

Whereas there are more than 40,000,000 inpatient surgery procedures and 31,000,000 outpatient surgery procedures performed annually in the United States;

Whereas it is the right of every patient to receive the highest quality of care in all surgical settings;

Whereas a patient is the most vulnerable and unable to make decisions on their own behalf during a surgical or invasive procedure due to anesthesia or other sedation;

Whereas improved communication among the surgical team and a reduction in medical errors in the operating room are essential for optimal outcomes during operative or other invasive procedures;

Whereas the Association of periOperative Registered Nurses, the Joint Commission on Accreditation of Healthcare Organizations, the American College of Surgeons, and the American Society for Healthcare Risk Management celebrated a National Time-Out

Day on June 23, 2004, to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing wrong site surgery errors in operating rooms in the United States;

Whereas the Senate during the 109th Congress supported a National Time-Out Day in 2005 on behalf of the Association of periOperative Registered Nurses, the Joint Commission on Accreditation of Healthcare Organizations, the American College of Surgeons, and the American Society for Healthcare Risk Management to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room;

Whereas the Association of periOperative Registered Nurses, joined by coalition partners, celebrated a National Time-Out Day on June 22, 2005, for the purpose of promoting safe medication administration practices and the Association of periOperative Registered Nurses distributed ''Safe Medication Administration Tool Kits'' to more than 5,000 hospitals and 13,000 nurse managers or educators;

Whereas the 109th Congress passed the Patient Safety and Quality Improvement Act of 2005 to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety;

Whereas the Association of periOperative Registered Nurses develops and issues, with coalition partners, universally-accepted authoritative statements, recommended guidelines, best practice guidelines, and competency statements for how to provide optimal care for patients in the operating room;

Whereas there is nationally-focused attention on improving patient safety in all healthcare facilities through the reduction of medical errors;

Whereas the Association of periOperative Registered Nurses, the recognized leader in patient safety in the operating room, promotes the highest quality of patient care during all operative or invasive procedures; and

Whereas the Association of periOperative Registered Nurses designates and celebrates National Time-Out Day on June 21, 2006, and each third Wednesday of June thereafter to promote patient safety and optimal outcomes in the operating room by focusing on the reduction of medical errors, fostering better communication among the members of the surgical team, and collaborating with coalition partners to establish universal protocols to increase quality and safety for surgical patients: Now, therefore, be it

*Resolved,* That the Senate—

(1) supports the goals and ideal of an annual National Time-Out Day as designated by the Association of periOperative Registered Nurses for ensuring patient safety and optimal outcomes in the operating room; and

(2) congratulates perioperative nurses and representatives of surgical teams for working together to protect patient safety during all operative and other invasive procedures.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4037. Mr. LEVIN (for himself, Ms. STABENOW, and Mr . KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 4038. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4039. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4040. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4041. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4042. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4043. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4044. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4045. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. REID, Mr. ISAKSON, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4046. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4047. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4048. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4049. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4050. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4051. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4052. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4053. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4054. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4055. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4056. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4057. Mr. THOMAS (for himself, Mr. KYL, Mr. SALAZAR, Mr. BINGAMAN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4058. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4059. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4060. Mr. LIEBERMAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4061. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4062. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4063. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4064. Mr. INHOFE (for himself, Mr. BYRD, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. COBURN, Mr. ENZI, Mr. SESSIONS, and Mr. GRAHAM) proposed an amendment to the bill S. 2611, supra.

SA 4065. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 4037.** Mr. LEVIN (for himself, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike lines 14 through 16 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''; and

(B) by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.'';

(2) in subsection (c)(2)(A), by striking ''a fundamental change in circumstances'' and inserting ''fundamental and lasting changes that have stabilized the country of the alien's nationality''; and

(3) in subsection (d)(5), by adding at the end the following:

''(C) MOTION TO REOPEN.—If an application for asylum filed before the effective date of this subparagraph is denied based on changed country conditions, the alien who filed such an application may file a single motion to reopen the administrative adjudication of the asylum application. Subsection (b)(4) shall apply to any adjudication reopened under this subparagraph.''.

**SA 4038.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 264, strike lines 13 through 20.

On page 370, line 21, strike ''this subsection'' and insert ''paragraphs (2) and (3)''.

On page 371, between lines 14 and 15, insert the following:

''(5) STATE IMPACT ASSISTANCE FEE.—

''(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien shall submit, at the time

the alien files an application under this section, a State impact assistance fee equal to—

''(i) $750 for the principal alien; and

''(ii) $100 for the spouse and each child described in subsection (a)(2).

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 389, between lines 6 and 7, insert the following:

''(3) STATE IMPACT ASSISTANCE FEE.—

''(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien seeking Deferred Mandatory Departure status shall submit, at the time the alien files an application under this section, a State impact assistance fee equal to $750.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 389, between lines 21 and 22, insert the following:

''(3) STATE IMPACT ASSISTANCE FEE.—

''(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, the spouse and each child of an alien seeking Deferred Mandatory Departure status shall submit a State impact assistance fee equal to $100.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 395, after line 23, add the following:

(e) STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by inserting after subsection (w) the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Assistance Account'.

''(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the State Impact Assistance Account all State impact assistance fees collected under section 245B(m)(5) and subsections (j)(3) and (k)(3) of section 245C.

''(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account may only be used to carry out the State Impact Assistance Grant Program established under paragraph (4).

''(4) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall establish the State Impact Assistance Grant Program (referred to in this section as the 'Program'), under which the Secretary may award grants to States to provide health and education services to noncitizens in accordance with this paragraph.

''(B) STATE ALLOCATIONS.—The Secretary of Health and Human Services shall annually allocate the amounts available in the State Impact Assistance Account among the States as follows:

''(i) NONCITIZEN POPULATION.—Eighty percent of such amounts shall be allocated so that each State receives the greater of—

''(I) $5,000,000; or

''(II) after adjusting for allocations under subclause (I), the percentage of the amount to be distributed under this clause that is equal to the noncitizen resident population of the State divided by the noncitizen resident population of all States, based on the most recent data available from the Bureau of the Census.

''(ii) HIGH GROWTH RATES.—Twenty percent of such amounts shall be allocated among the 20 States with the largest growth rates in noncitizen resident population, as determined by the Secretary of Health and Human Services, so that each such State receives the percentage of the amount distributed under this clause that is equal to—

''(I) the growth rate in the noncitizen resident population of the State during the most recent 3-year period for which data is available from the Bureau of the Census; divided by

''(II) the average growth rate in noncitizen resident population for the 20 States during such 3-year period.

''(iii) LEGISLATIVE APPROPRIATIONS.—The use of grant funds allocated to States under this paragraph shall be subject to appropriation by the legislature of each State in accordance with the terms and conditions under this paragraph.

''(C) FUNDING FOR LOCAL GOVERNMENT.—

''(i) DISTRIBUTION CRITERIA.—Grant funds received by States under this paragraph shall be distributed to units of local government based on need and function.

''(ii) MINIMUM DISTRIBUTION.—Except as provided in clause (iii), a State shall distribute not less than 30 percent of the grant funds received under this paragraph to units of local government not later than 180 days after receiving such funds.

''(iii) EXCEPTION.—If an eligible unit of local government that is available to carry out the activities described in subparagraph (D) cannot be found in a State, the State does not need to comply with clause (ii).

''(iv) UNEXPENDED FUNDS.—Any grant funds distributed by a State to a unit of local government that remain unexpended as of the end of the grant period shall revert to the State for redistribution to another unit of local government.

''(D) USE OF FUNDS.—States and units of local government shall use grant funds received under this paragraph to provide health services, educational services, and related services to noncitizens within their jurisdiction directly, or through contracts with eligible services providers, including—

''(i) health care providers;

''(ii) local educational agencies; and

''(iii) charitable and religious organizations.

''(E) STATE DEFINED.—In this paragraph, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(F) CERTIFICATION.—In order to receive a payment under this section, the State shall provide the Secretary of Health and Human Services with a certification that the State's proposed uses of the fund are consistent with (D).

(G) ANNUAL REPORT.—The Secretary of Health and Human Services shall inform the States annually of the amount of funds available to each State under the Program.''.

---

**SA 4039.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ALIENS OF EXTRAORDINARY ARTISTIC ABILITY.**

Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) in paragraph (6)(D)—

(A) by Striking ''Any person'' and inserting ''(i) Except as provided in clause (ii), any person''; and

(B) adding at the end the following:

''(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien with extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) not later than 30 days after—

''(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

''(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an opportunity, as appropriate, to supply rebuttal evidence.

''(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary of Homeland Security shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.''.

---

**SA 4040.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 3 and all that follows through ''(G)'' on line 9 and insert ''(F)''.

On page 69, line 11, strike ''(H)'' and insert ''(G)''.

On page 71, strike line 19 and all that follows through ''(L)'' on page 78, line 12, and insert the following;

''(E) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(F) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody as if the removal period terminated on the day of the redetention.

''(G)

On page 78, strike line 16 and all that follows through page 79, line 4, and insert the following: ''guidelines established under sections 241.4 and 241.13 of title 8, Code of Federal Regulations.'.''.

On page 83, lines 17 and 18, strike '', including classified, sensitive, or national security information;';'' and insert '';'; and''.

On page 84, line 6, strike ''; and'' and all that follows through line 17, and insert a period.

On page 86, lines 10 and 11, strike ''including classified, sensitive, or national security information,''.

On page 88, strike line 7 and all that follows through ''(3)'' on page 89, line 23, and insert ''(1)''.

On page 137, strike line 24 and all that follows through ''(2)'' on page 138, line 7, and insert ''(1)''.

On page 138, line 13, strike ''(3)'' and insert ''(2)''.

On page 138, strike lines 21 through 23 and insert the following:

''(3) FAILURE TO COMPLY WITH AGREEMENT.—If an alien agrees to

On page 139, line 5, strike ''(i) ineligible'' and insert the following:

''(A) ineligible

On page 139, line 7, strike ''(ii) subject'' and insert the following:

''(B) subject

On page 139, line 9, strike ''(iii) subject'' and insert the following:

''(C) subject

On page 139, line 11, strike the period at the end and all that follows through ''Secretary'' on page 140, line 6.

On page 141, line 10, strike the period at the end and all that follows through ''protection'' on page 142, line 3.

---

**SA 4041.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. JUDICIAL REVIEW OF VISA REVOCATION.**

(a) IN GENERAL.—Section 221(i) (8 U.S.C. 1201(i)) is amended by striking the last sentence and inserting the following: ''Notwithstanding any other provision of law (statutory or nonstatutory), including sections, 1361, 1651, and 2241 of title 28, United States Code, and any other habeas corpus provision, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.'' .

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to visa revocations effected before, on, or after the date of enactment of this Act.

---

**SA 4042.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. H–1B EMPLOYER FEE.**

Section 214(c)(9)(B) (8 U.S.C. 1184(c)(9)(B)) is amended by striking ''$1,500'' and inserting ''$2,000''.

---

**SA 4043.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 260, line 18, strike ''may be required to'' and insert ''shall''.

---

**SA 4044.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 385, strike line 21 and all that follows through page 386, line 3, and insert the following:

''(B) a fine of $5,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

''(C) a fine of $10,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

---

**SA 4045.** Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. REID, Mr. ISAKSON, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. ADDRESSING POVERTY IN MEXICO.**

(a) FINDINGS.—Congress finds the following:

(1) There is a strong correlation between economic freedom and economic prosperity.

(2) Trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom.

(3) Poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico.

(4) Strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration.

(5) Advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity.

(b) GRANT AUTHORIZED.—The Secretary of State may award a grant to a land grant university in the United States to establish a national program for a broad, university-based Mexican rural poverty mitigation program.

(c) FUNCTIONS OF MEXICAN RURAL POVERTY MITIGATION PROGRAM.—The program established pursuant to subsection (b) shall—

(1) match a land grant university in the United States with the lead Mexican public university in each of Mexico's 31 states to provide state-level coordination of rural poverty programs in Mexico;

(2) establish relationships and coordinate programmatic ties between universities in the United States and universities in Mexico to address the issue of rural poverty in Mexico;

(3) establish and coordinate relationships with key leaders in the United States and Mexico to explore the effect of rural poverty on illegal immigration of Mexicans into the United States; and

(4) address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

(1) AUTHORIZED USES.—Grant funds awarded under this section may be used—

(A) for education, training, technical assistance, and any related expenses (including personnel and equipment) incurred by the grantee in implementing a program described in subsection (a); and

(B) to establish an administrative structure for such program in the United States.

(2) LIMITATIONS.—Grant funds awarded under this section may not be used for activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.

---

**SA 4046.** Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 313, after line 22, add the following:

**Subtitle A—Secure Authorized Foreign Employee (SAFE) Visa Program**

**SEC. 441. ADMISSION OF SAFE VISA WORKERS.**

(a) IN GENERAL.— Chapter 2 of title II (8 U.S.C. 1181 et seq.), as amended by this title and title VI, is further amended by inserting after section 218 the following:

**SEC. 2181. SECURE AUTHORIZED FOREIGN EMPLOYEE (SAFE) VISA PROGRAM.**

''(a) AUTHORIZATION.—Not later than twelve months after the date of enactment of this Act, the Secretary of State shall grant a SAFE visa to a national of a NAFTA or CAFTA–DR nation who meets the requirements under subsection (b) to perform services in the United States in accordance with this section.

''(b) REQUIREMENTS FOR ADMISSION.—An alien is eligible for a SAFE visa if the alien—

''(1) has a residence in a NAFTA or CAFTA–DR nation which the alien has no intention of abandoning;

''(2) applies for an initial SAFE visa from their home country;

''(3) establishes that the alien has received a job offer from an employer who has complied with the requirements under subsection (c);

''(4) undergoes a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice;

''(5) passes all appropriate background checks;

''(6) submits a completed application, on a form designed by the Secretary of Homeland Security; and

''(7) pays a visa issuance fee, as determined by the Secretary of State, in an amount equal to not less than the cost of processing and adjudicating such application.

''(c) EMPLOYER RESPONSIBILITIES.—An employer seeking to hire a national of a NAFTA or CAFTA–DR nation under this section shall—

''(1) submit a request to the Secretary of Labor for a certification under subsection (d) that there is a shortage of workers in the occupational classification and geographic area for which the worker is sought;

''(2) submit to each worker a written employment offer that sets forth the rate of pay at a rate that is not less than the greater of—

''(A) the prevailing wage for such occupational classification in such geographic area; or

''(B) the applicable minimum wage in the State in which the worker will be employed;

''(3) provide the workers with necessary transportation, housing, and meal costs, which may be deducted from the worker's pay under an employment agreement; and

''(4) withhold and remit appropriate payroll deductions to the Internal Revenue Service.

''(d) LABOR CERTIFICATION.—Upon receiving a request from an employer under subsection (c)(1), the Secretary of Labor shall provide the employer with labor shortage certification for the occupational classification for which the worker is sought if the Secretary of Labor determines the existence of such shortage, based on the national unemployment rate and the number of workers needed in the occupational classification and geographic area for which the worker is sought.

''(e) PERIOD OF AUTHORIZED ADMISSION.—

''(1) DURATION.—A SAFE visa worker may remain in the United States for not longer than 10 months during the 12 month period for which the visa is issued.

''(2) RENEWAL.—A SAFE visa may be renewed for additional 10-month work periods under the same terms and conditions as the original issuance.

''(3) VISITS OUTSIDE UNITED STATES.—Under regulations established by the Secretary of Homeland Security, a SAFE visa worker—

''(A) may travel outside of the United States; and

''(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(4) LOSS OF EMPLOYMENT.—The period of authorized admission under this section shall terminate if the SAFE visa worker is unemployed for 60 or more consecutive days. Any SAFE visa worker whose period of authorized admission terminates under this paragraph shall be required to leave the United States. Failure to comply with the terms of the SAFE visa will result in permanent ineligibility for the program.

''(5) RETURN TO COUNTRY OF ORIGIN.—A SAFE visa worker may not apply for lawful permanent residence or any other visa category until the worker has relinquished the SAFE visa and returned to their country of origin.

''(f) EVIDENCE OF NONIMMIGRANT STATUS.—Each SAFE visa worker shall be issued a SAFE visa card, which—

''(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

''(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement; and

''(3) shall, during the alien's authorized period of admission under subsection (e), serve as a valid document for the purpose of physically entering the United States.

''(g) SOCIAL SERVICES.—

''(1) IN GENERAL.—SAFE visa workers are not eligible for Federal, State, or local government-sponsored social services.

''(2) SOCIAL SECURITY.—SAFE visa workers are eligible to receive the employee portion of the social security contributions withheld from their pay not earlier than the date on which the worker permanently leaves the SAFE visa program.

''(3) MEDICARE.—Amounts withheld from the SAFE visa workers pay for Medicare contributions shall be used to pay for uncompensated emergency health care provided to noncitizens.

''(h) PERMANENT RESIDENCE; CITIZENSHIP.—Nothing in this section shall be construed to provide a SAFE visa worker with eligibility to apply for legal permanent residence or a path towards United States citizenship.''.

(b) CLERICAL AMENDMENT.—The table of contents (8 U.S.C. 1101) is amended by inserting after the item relating to section 218H, as added by section 615, the following:

''Sec. 2181. Secure Authorized Foreign Employee (SAFE) Visa Program.''.

---

**SA 4047.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. FAIR MINIMUM WAGE.**

(a) SHORT TITLE.—This section may be cited as the ''Fair Minimum Wage Act of 2006''.

(b) MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.15 an hour beginning September 1, 1997;

''(B) $5.85 an hour beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2006;

''(C) $6.55 an hour beginning 12 months after such 60th day; and

''(D) $7.25 an hour beginning 24 months after such 60th day;''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) TRANSITION.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) $3.55 an hour beginning on the 60th day after the date of enactment of this Act; and

(B) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act) beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this paragraph is equal to the minimum wage set forth in such section.

---

**SA 4048.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 5 and 6, insert the following:

(c) NORTHERN BORDER TRAINING FACILITY.—

(1) IN GENERAL.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) USE OF TRAINING FACILITY.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) TRAINING CURRICULUM.—The Secretary shall design training curriculum to be offered at the training facility through multi-day training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

(vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) communications.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subsection.

---

**SA 4049.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. CONTAINER SECURITY.**

(a) REQUIREMENTS FOR SCANNING.—Except as provided in subsection (b), after the date that is 3 years after the date of the enactment of this Act, a container may not enter the United States, either directly or via a foreign port, unless the container is scanned with radiation detection equipment.

(b) EXTENSION OF TIME.—The Secretary may extend by up to one year the date referred to in subsection (a) if the Secretary finds that the required radiation detection scanning equipment is not available for purchase and installation and submits such finding to Congress not later than 90 days prior to issuing such an extension.

(c) STANDARDS.—The Secretary shall establish standards for equipment used to carry out the scanning required by subsection (a) to ensure such equipment uses the best available technology for radiation detection screening.

(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the Secretary's plan to implement this section.

---

**SA 4050.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike lines 9 through 16, and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall—

(1) procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

---

**SA 4051.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 2 and 3, insert the following:

(b) MOBILE IDENTIFICATION SYSTEM.—

(1) REQUIREMENT FOR SYSTEMS.—Not later than October 1, 2007, the Secretary shall deploy wireless, hand-held biometric identification devices, interfaced with United States Government immigration databases, at all United States ports of entry and along the international land borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary $10,000,000 for fiscal year 2007 to carry out this subsection.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (2) shall remain available until expended.

---

**SA 4052.** Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, strike line 10 and all that follows through page 395, line 23, and insert the following:

**Subtitle A—Mandatory Departure and Reentry in Legal Status**

**SEC. 601. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.**

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218C, as added by section 405, the following:

**"SEC. 218D. MANDATORY DEPARTURE AND REENTRY.**

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—

''(1) PRESENCE.—An alien shall establish that the alien—

''(A) was physically present in the United States on the date that is 1 year before the date on which the Comprehensive Immigration Reform Act of 2006 was introduced in Congress; and

''(B) has been continuously in the United States since that date; and

''(C) was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

''(2) EMPLOYMENT.—An alien must establish that the alien—

''(A) was employed in the United States before the date on which the Comprehensive Immigration Reform Act of 2006 was introduced in Congress; and

''(B) has been employed in the United States since that date.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien must establish that the alien—

''(i) is admissible to the United States (except as provided in subparagraph (B)); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), as applied to individual aliens—

''(i) for humanitarian purposes;

''(ii) to assure family unity; or

''(iii) if such waiver is otherwise in the public interest.

''(4) INELIGIBLE.—An alien is ineligible for Deferred Mandatory Departure status if the alien—

''(A) has been ordered removed from the United States—(i) for overstaying the period of authorized admission under section 217; (ii) under section 235 or 238; or (iii) pursuant to a final order of removal under section 240;

''(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

''(C) is subject to section 241(a)(5);

''(D) has been issued a notice to appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or inadmissible under section 212(a)(6)(A);

''(E) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371);

''(F) fails to comply with any request for information by the Secretary of Homeland Security; or

''(G) the Secretary of Homeland Security determines that—(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States; (ii) there are reasonable grounds for * * * a serious crime outside the United States prior to the arrival of the alien in the United States; or (iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

''(H) the alien has been convicted of a felony or 3 or more misdemeanors.

''(I) Exception.—notwithstanding subparagraphs (A) and (B), an alien who has not been ordered removed from the United States shall remain eligible for defered mandatory departure status if the alien's ineligibility under subparagraphs (A) and (B) is solely related to the alien's—(i) entry into the United States without inspection; (ii) remaining in the United States beyond the period of authorized admissions; or (iii) failure to maintain legal status while in the United States.

(J) Waiver.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraphs (A) and (B) if the alien was ordered removed on the basis that the alien (i) entered without inspection;

(ii) failed to maintain status, or (iii) was ordered removed under 212(a)(6)(c)(i) prior to April 7, 2006, and—(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a) or; (ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or (iii) the alien's departure from the United States now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

''(A) if the Secretary determines that the alien was not eligible for such status; or

''(B) if the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(3) APPLICATION.—An alien shall submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(1) an acknowledgment made in writing and under oath that the alien—

''(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(B) understands the terms of the terms of Deferred Mandatory Departure;

''(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(3) any false or fraudulent documents in the alien's possession.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant Deferred Mandatory Departure status to an alien for a period not to exceed 5 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

''(A) depart the United States before the expiration of the period of Deferred Mandatory Departure status;

''(B) register with the Secretary of Homeland Security at the time of departure; and

''(C) surrender any evidence of Deferred Mandatory Departure status at time of departure.

''(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and departs before the expiration of such status—

''(A) shall not be subject to section 212(a)(9)(B); and

''(B) may immediately seek admission as a nonimmigrant or immigrant, if otherwise eligible.

''(4) FAILURE TO DEPART.—An alien who fails to depart the United States before the expiration of Deferred Mandatory Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, except as provided under section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to immediately depart the United States shall be subject to—

''(A) no fine if the alien departs the United States not later than 1 year after being granted Deferred Mandatory Departure status;

''(B) a fine of $2,000 if the alien remains in the United States for more than 1 year and not more than 2 years after being granted Deferred Mandatory Departure status;

''(C) a fine of $3,000 if the alien remains in the United States for more than 2 years and not more than 3 years after being granted Deferred Mandatory Departure status;

''(D) a fine of $4,000 if the alien remains in the United States for more than 3 years and not more than 4 years after being granted Deferred Mandatory Departure status; and

''(E) a fine of $5,000 if the alien remains in the United States for more than 4 years after being granted Deferred Mandatory Departure status.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period in which an alien is in Deferred Mandatory Departure status, the alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure status is not subject to section 212(a)(9) for any unlawful presence that occurred before the Secretary of Homeland Security granting such status to the alien.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure status—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) shall establish, at the time of application for admission, that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure status under this section, the alien—

''(A) shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) may be deemed ineligible for public assistance by a State or any political subdivision of a State that furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status may not apply to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) FAMILY MEMBERS.—

''(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

''(B) APPLICATION FEE.—

''(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens.

''(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status shall be employed while the alien is in the United States. An alien who fails to be employed for 30 days may not be hired until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218C the following:

''Sec. 218D. Mandatory departure and reentry.''.

(2) DEPORTATION.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218D),''.

**SEC. 602. STATUTORY CONSTRUCTION.**

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

**SEC. 603. EXCEPTIONS FOR HUMANITARIAN REASONS.**

Notwithstanding any other provision of law, an alien may be exempt from Deferred Mandatory Departure status and may apply for lawful permanent resident status during the 1-year period beginning on the date of the enactment of this Act if the alien—

(1) is the spouse of a citizen of the United States at the time of application for lawful permanent resident status;

(2) is the parent of a child who is a citizen of the United States;

(3) is not younger than 65 years of age;

(4) is not older than 16 years of age and is attending school in the United States;

(5) is younger than 5 years of age;

(6) on removal from the United States, would suffer long-term endangerment to the life of the alien; or

(7) owns a business or real property in the United States.

**SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated $1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out this title and the amendments made by this title.

---

**SA 4053.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. . IMMIGRANTS TO NEW AMERICANS MODEL PROGRAMS**

(a) FINDINGS.—The Senate finds the following: (1) English is the language of the United States, and all members of the society recognize the importance of English to national life and individual accomplishment;

(2) The English language is spoken by 92 percent of United States residents, according to the 2000 United States Census, and English language skills are essential to successful participation in communities across the United States;

(3) Many communities recognize the need to continue to provide services in languages other than English to facilitate access to essential functions of government, promote public health and safety, promote equal educational opportunity, and ensure government efficiency.

(b) PURPOSE.—The purpose of this section is to establish a grant program, within the Department of Education, that provides funding to partnerships of local educational agencies and community-based organizations to develop model programs that encourage all residents of this country to become fully proficient in English and provide immigrant students and their families the services needed to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(c) DEFINITIONS.—In this section:

(1) SECONDARY SCHOOL.—The terms ''community-based organization'', ''elementary school'', ''local educational agency'', and ''secondary school'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) IMMIGRANT.—The term ''immigrant'' has the meaning given the term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(d) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award not more than 10 grants in a fiscal year to eligible partnerships for the design and implementation of model programs to—

(A) assist immigrant students to achieve in elementary schools and secondary schools in the United States by offering such educational services as English as a second language classes, literacy programs, programs for introduction to the education system, and civics education; and

(B) assist parents of immigrant students by offering such services as Adult English as a second language class, civics and government classes, parent education, and literacy development services, and;

(C) to coordinate activities with other entities to provide comprehensive community social services such as health care, job training, child care, and transportation services.

(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years. A partnership may use funds made available through the grant for not more than 1 year for planning and program design.

(e) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) ELIGIBLE PARTNERSHIPS.—To be eligible to receive a grant under this section, a partnership—

(A) shall include—

(i) at least 1 local educational agency; and

(ii) at least 1 community-based organization; and

(B) may include another entity such as an institution of higher education, a local or State government agency, a private sector entity, or another entity with expertise in working with immigrants.

(3) REQUIRED DOCUMENTATION.—Each application submitted by a partnership under this section for a proposed program shall include documentation that—

(A) the partnership has the qualified personnel required to develop, administer, and implement the proposed program; and

(B) the leadership of each participating school has been involved in the development and planning of the program in the school.

(4) OTHER APPLICATION CONTENTS.—Each application submitted by a partnership under this section for a proposed program shall include—

(A) a list of the organizations entering into the partnership;

(B) a description of the need for the proposed program, including data on the number of immigrant students, and the number of such students with limited English proficiency, in the schools or school districts to be served through the program and the characteristics of the students described in this subparagraph, including—

(i) the native languages of the students to be served;

(ii) the proficiency of the students in English and the native languages;

(iii) achievement data for the students in—

(I) reading or language arts (in English and in the native languages, if applicable); and

(II) mathematics; and

(iv) the previous schooling experiences of the students;

(C) a description of the goals of the program;

(D) a description of how the funds made available through the grant will be used to supplement the basic services provided to the immigrant students to be served;

(E) a description of activities that will be pursued by the partnership through the program, including a description of—

(i) how parents, students, and other members of the community, including members of private organizations and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) how the activities will further the academic achievement of immigrant students served through the program;

(iii) methods of teacher training and parent education that will be used or developed through the program, including the dissemination of information to immigrant parents, that is easily understandable in the language of the parents, about educational programs and the rights of the parents to participate in educational decisions involving their children; and

(iv) methods of coordinating comprehensive community social services to assist immigrant families;

(F) a description of how the partnership will evaluate the progress of the partnership in achieving the goals of the program;

(G) a description of how the local educational agency will disseminate information on model programs, materials, and other information developed under this section that the local educational agency determines to be appropriate for use by other local educational agencies in establishing similar programs to facilitate the educational achievement of immigrant students;

(H) an assurance that the partnership will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(f) SELECTION OF GRANTEES.—

(1) CRITERIA.—The Secretary, through a peer review process, shall select partnerships to receive grants under this section on the

basis of the quality of the programs proposed in the applications submitted under subsection (f), taking into consideration such factors as—

(A) the extent to which the program proposed in such an application effectively addresses differences in language, culture, and customs;

(B) the quality of the activities proposed by a partnership;

(C) the extent of parental, student, and community involvement;

(D) the extent to which comprehensive community social services are made available;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be achieved.

(2) GEOGRAPHIC DISTRIBUTION OF PROGRAMS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section serve different areas of the Nation, including urban, suburban, and rural areas, with special attention to areas that are experiencing an influx of immigrant groups (including refugee groups), and that have limited prior experience in serving the immigrant community.

(g) EVALUATION AND PROGRAM DEVELOPMENT.—

(1) REQUIREMENT.—Each partnership receiving a grant under this section shall—

(A) conduct a comprehensive evaluation of the program assisted under this section, including an evaluation of the impact of the program on students, teachers, administrators, parents, and others; and

(B) prepare and submit to the Secretary a report containing the results of the evaluation.

(2) EVALUATION REPORT COMPONENTS.—Each evaluation report submitted under this section for a program shall include—

(A) data on the partnership's progress in achieving the goals of the program;

(B) data showing the extent to which all students served by the program are meeting the State's student performance standards, including—

(i) data comparing the students served to other students, with regard to grade retention and academic achievement in reading and language arts, in English and in the native languages of the students if the program develops native language proficiency, and in mathematics; and

(ii) a description of how the activities carried out through the program are coordinated and integrated with the overall school program of the school in which the program described in this section is carried out, and with other Federal, State, or local programs serving limited English proficient students;

(C) data showing the extent to which families served by the program have been afforded access to comprehensive community social services; and

(D) such other information as the Secretary may require.

(h) ADMINISTRATIVE FUNDS.—A partnership that receives a grant under this section may use not more than 5 percent of the grant funds received under this section for administrative purposes.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums for fiscal year 2007 and such sums as may be necessary for each of the 4 succeeding fiscal years.

---

**SA 4054.** Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 5 and 6, insert the following:

(e) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting ''and immigrants with advanced degrees'' after ''diversity immigrants''; and

(2) by amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

''(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

''(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.''.

(f) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking ''paragraph (2), aliens subject to the worldwide level specified in section 201(e)'' and inserting ''paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

''(2) ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

''(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

''(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.'';

(D) in paragraph (3), as redesignated, by striking ''this subsection'' each place it appears and inserting ''paragraph (1)''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF INFORMATION.—

''(A) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

''(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).''; and

(2) in subsection (e)—

(A) in paragraph (2), by striking ''(c)'' and inserting ''(c)(1)'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

''(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

''(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

''(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

''(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

''(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.''.

(g) ADVANCED DEGREE AND DIVERSITY VISA CARRYOVER.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

''(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.''.

(h) EFFECTIVE DATE.—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

---

**SA 4055.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.**

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99–603) is amended—

(1) by striking ''section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))'' and inserting ''item (a) or (b) of section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))''; and

(2) by inserting ''or forestry'' after ''agricultural''.

---

**SA 4056.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. GRANTS FOR LOCAL PROGRAMS RELATING TO UNDOCUMENTED IMMIGRANTS.**

(a) GRANTS AUTHORIZED.—The Secretary is authorized to award competitive grants to units of local government for innovative programs that address the increased expenses incurred in responding to the needs of undocumented immigrants.

(b) MAXIMUM AMOUNT.—The Secretary may not award a grant under this section to a unit of local government in an amount which exceeds $15,000,000.

(c) USE OF GRANT FUNDS.—Grants awarded under this section may be used for activities relating to the undocumented immigrant population residing in the locality, including—

(1) law enforcement activities;

(2) uncompensated health care;

(3) public housing;

(4) inmate transportation; and

(5) reduction in jail overcrowding.

(d) APPLICATION.—Each unit of local government desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(e) DISTRIBUTION OF GRANT AMOUNTS.—Of the amounts made available to provide grants to units of local governments under this section, 75 percent shall be made available to counties that have a population of less than 3,000,000 according to the 2000 census.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

---

**SA 4057.** Mr. THOMAS (for himself, Mr. KYL, Mr. SALAZAR, Mr. BINGAMAN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 761 and insert the following:

**SEC. 761. BORDER SECURITY ON CERTAIN FEDERAL LAND.**

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term ''protected land'' means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the United States Fish and Wildlife Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service, the United States Fish and Wildlife Service, and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S. C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) National Forest System land;

(3) land under the jurisdiction of the United States Fish and Wildlife Service; and

(4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

---

**SA 4058.** Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 315, strike line 7 and all that follows through page 316, line 5, and insert the following:

''(A)(i) for each of fiscal years 2007 through 2016, 450,000; or

''(ii) for fiscal year 2017 and each subsequent fiscal year, 290,000; and

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year.

''(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

''(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

''(B) ADDITIONAL NUMBER.—

''(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

''(I) the difference between—

''(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

''(bb) the number of employment-based visas actually used during that period; and

''(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that were counted for purposes of paragraph (1)(B).

''(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.''.

On page 316, strike lines 6 through 15 and insert the following:

**SEC. 502. COUNTRY LIMITS.**

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''.

On page 341, strike lines 1 through 4 and insert the following:

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

''(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

''(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

''(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

''(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

''(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.''.

Beginning on page 341, strike line 23 and all that follows through page 342, line 4, and insert the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 345, between lines 5 and 6, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

''(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall—

''(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

''(2) adjust each applicable fee payment schedule in accordance with the increments

provided under paragraph (1) so that 1 fee is required for each 3-year increment.''.

---

**SA 4059.** Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. INADMISSIBILITY FOR FALSELY CLAIMING CITIZENSHIP.**

Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(6)(C)(iii), by inserting after ''clause (i)'' the following: ''or (ii)''; and

(2) in subsection (i)(1), by inserting after ''clause (i)'' the following: ''or (ii)''.

---

**SA 4060.** Mr. LIEBERMAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—INSPECTIONS AND DETENTIONS**

**SEC. ___01. SHORT TITLE.**

This title may be cited as the ''Secure and Safe Detention and Asylum Act''.

**SEC. ___02. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) The origin of the United States is that of a land of refuge. Many of our Nation's founders fled here to escape persecution for their political opinion, their ethnicity, and their religion. Since that time, the United States has honored its history and founding values by standing against persecution around the world, offering refuge to those who flee from oppression, and welcoming them as contributors to a democratic society.

(2) The right to seek and enjoy asylum from persecution is a universal human right and fundamental freedom articulated in numerous international instruments endorsed by the United States, including the Universal Declaration of Human Rights, as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the Convention Against Torture. United States law also guarantees the right to seek asylum and protection from return to territories where one would have a well-founded fear of persecution on account of one's race, religion, nationality, membership in a particular social group, or political opinion.

(3) The United States has long recognized that asylum seekers often must flee their persecutors with false documents, or no documents at all. The second person in United States history to receive honorary citizenship by Act of Congress was Swedish diplomat Raoul Wallenberg, in gratitude for his issuance of more than 20,000 false Swedish passports to Hungarian Jews to assist them flee the Holocaust.

(4) In 1996, Congress amended section 235(b) of the Immigration and Nationality Act, to authorize immigration officers to detain and expeditiously remove aliens without proper documents, if that alien does not have a credible fear of persecution.

(5) Section 605 of the International Religious Freedom Act of 1998 subsequently authorized the United States Commission on International Religious Freedom to appoint experts to study the treatment of asylum seekers subject to expedited removal.

(6) The Departments of Justice and Homeland Security fully cooperated with the Commission, which reviewed thousands of previously unreleased statistics, approximately 1,000 files and records of proceeding related to expedited removal proceedings, observed more than 400 inspections, interviewed 200 aliens in expedited removal proceedings at 7 ports of entry, and surveyed 19 detention facilities and all 8 asylum offices. The Commission released its findings on February 8, 2005.

(7) Among its major findings, the Commission found that, while the Congress, the Immigration and Naturalization Service, and the Department of Homeland Security developed a number of processes to prevent bona fide asylum seekers from being expeditiously removed, these procedures were routinely disregarded by many immigration officers, placing the asylum seekers at risk, and undermining the reliability of evidence created for immigration enforcement purposes. The specific findings include the following:

(A) Department of Homeland Security procedures require that the immigration officer read a script to the alien that the alien should ask for protection—without delay—if the alien has any reason to fear being returned home. Yet in more than 50 percent of the expedited removal interviews observed by the Commission, this information was not conveyed to the applicant.

(B) Department of Homeland Security procedures require that the alien review the sworn statement taken by the immigration officer, make any necessary corrections for errors in interpretation, and then sign the statement. The Commission found, however, that 72 percent of the time, the alien signs his sworn statement without the opportunity to review it.

(C) The Commission found that the sworn statements taken by the officer are not verbatim, are not verifiable, often attribute that information was conveyed to the alien which was never, in fact, conveyed, and sometimes contain questions which were never asked. These sworn statements look like verbatim transcripts but are not. Yet the Commission also found that, in 32 percent of the cases where the immigration judges found the asylum applicant were not credible, they specifically relied on these sworn statements.

(D) Department of Homeland Security regulations also require that, when an alien expresses a fear of return, he must be referred to an asylum officer to determine whether his fear is ''credible.'' Yet, in nearly 15 percent of the cases which the Commission observed aliens who expressed a fear of return were nevertheless removed without a referral to an asylum officer.

(8) The Commission found that the sworn statements taken during expedited removal proceedings were reliable for neither enforcement nor protection purposes because Department of Homeland Security management reviewed only the paperwork created by the interviewing officer. The agency had no national quality assurance procedures to ensure that paper files are an accurate representation of the actual interview. The Commission recommended recording all interviews between Department of Homeland Security officers and aliens subject to expedited removal, and that procedures be established to ensure that these recordings are reviewed to ensure compliance.

(9) The Commission found that the Immigration and Naturalization Service (INS) issued policy guidance on December 30, 1997, defining criteria for decisions to release asylum seekers from detention. Neither the INS nor the Department of Homeland Security, however, had been following this, or any other discernible criteria, for detaining or releasing asylum seekers. The Study's review of Department of Homeland Security statistics revealed that release rates varied widely, between 5 percent and 95 percent, in different regions.

(10) In order to promote the most efficient use of detention resources and a humane yet secure approach to detention of aliens with a credible fear of persecution, the Commission urged that the Department of Homeland Security develop procedures to ensure that a release decision is taken at the time of the credible fear determination or as soon as feasible thereafter. Upon a determination that the alien has established credible fear, identity and community ties, and that the alien is not subject to any possible bar to asylum involving violence, misconduct, or threat to national security, the alien should be released from detention pending an asylum determination. The Commission also urged that the Secretary of Homeland Security establish procedures to ensure consistent implementation of release criteria, as well as the consideration of requests to consider new evidence relevant to the determination.

(11) In 1986, the United States, as a member of the Executive Committee of the United Nations High Commissioner for Refugees, noted that in view of the hardship which it involves, detention of asylum seekers should normally be avoided; that detention measures taken in respect of refugees and asylum-seekers should be subject to judicial or administrative review; that conditions of detention of refugees and asylum seekers must be humane; and that refugees and asylum-seekers shall, whenever possible, not be accommodated with persons detained as criminals.

(12) The USCIRF Study found that, of non-criminal asylum seekers and aliens detained, the vast majority are detained under inappropriate and potentially harmful conditions in jails and jail-like facilities. This occurs in spite of the development of a small number of successful nonpunitive detention facilities, such as those in Broward County Florida and Berks County, Pennsylvania.

(13) The Commission found that nearly all of the detention centers where asylum seekers are detained resemble, in every essential respect, conventional jails. Often, aliens with no criminal record are detained alongside criminals and criminal aliens. The standards applied by the Bureau of Immigration and Customs Enforcement for all of their detention facilities are identical to, and modeled after, correctional standards for criminal populations. In some facilities with ''correctional dormitory'' set-ups, there are large numbers of detainees sleeping, eating, going to the bathroom, and showering out in the open in one brightly lit, windowless, and locked room. Recreation in Bureau of Immigration and Customs Enforcement facilities often consists of unstructured activity of no more than 1 hour per day in a small outdoor space surrounded by high concrete walls.

(14) Immigration detention is civil and should be nonpunitive in nature.

(15) A study conducted by Physicians for Human Rights and the Bellevue/New York University Program for Survivors of Torture found that the mental health of asylum seekers was extremely poor, and worsened the longer individuals were in detention. This included high levels of anxiety, depression, and post-traumatic stress disorder. The study also raised concerns about inadequate access to health services, particularly mental health services. Asylum seekers interviewed consistently reported being treated like criminals, in violation of international human rights norms, which contributed to worsening of their mental health. Additionally, asylum seekers reported verbal abuse and inappropriate threats and use of solitary confinement.

(16) The Commission recommended that the secure but nonpunitive detention facility in Broward County Florida Broward provided a more appropriate framework for those asylum seekers who are not appropriate candidates for release.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To ensure that personnel within the Department of Homeland Security follow procedures designed to protect bona fide asylum seekers from being returned to places where they may face persecution.

(2) To ensure that persons who affirmatively apply for asylum or other forms of humanitarian protection and noncriminal detainees are not subject to arbitrary detention.

(3) To ensure that asylum seekers, families with children, noncriminal aliens, and other vulnerable populations, who are not eligible for release, are detained under appropriate and humane conditions.

**SEC. ___03. DEFINITIONS.**

In this title:

(1) ASYLUM OFFICER.—The term ''asylum officer'' has the meaning given the term in section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)).

(2) ASYLUM SEEKER.—The term ''asylum seeker'' means any applicant for asylum under section 208 or for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158) or any alien who indicates an intention to apply for relief under those sections and does not include any person with respect to whom a final adjudication denying the application has been entered.

(3) CREDIBLE OR REASONABLE FEAR OF PERSECUTION.—The term ''credible fear of persecution'' has the meaning given the term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)). The term ''reasonable fear'' has the meaning given the term in section 208.31 of title 8, Code of Federal Regulations.

(4) DETAINEE.—The term ''detainee'' means an alien in the Department's custody held in a detention facility.

(5) DETENTION FACILITY.—The term ''detention facility'' means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(6) IMMIGRATION JUDGE.—The term ''immigration judge'' has the meaning given the term in section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).

(7) STANDARD.—The term ''standard'' means any policy, procedure, or other requirement.

(8) VULNERABLE POPULATIONS.—The term ''vulnerable populations'' means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers as described in paragraph (2).

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the United Nations Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386), including applicants for visas under subparagraph (T) or (U) of section 101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106–386).

(G) Unaccompanied alien children (as defined by 462(g) of the Homeland Security Act (6 U.S.C. 279(g)).

**SEC. ___04. RECORDING SECONDARY INSPECTION INTERVIEWS.**

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by Department of Homeland Security employees exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act.

(b) FACTORS RELATING TO SWORN STATEMENTS.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act shall be accompanied by a recording of the interview which served as the basis for that sworn statement. Nothing in this section shall be construed to require the recording of an interview conducted by a government employee in any context other than that of a proceeding pursuant ot 235(b)(1)(A) of the Immigration and Nationality Act.

(c) RECORDINGS.—

(1) IN GENERAL.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language which the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) FORMAT.—The recordings shall be made in video, audio, or other equally reliable format.

(d) INTERPRETERS.—The Secretary shall ensure professional certified interpreters are used when the interviewing officer does not speak a language understood by the alien.

(e) RECORDINGS IN IMMIGRATION PROCEEDINGS.—Recordings of interviews of aliens subject to expedited removal shall be included in the record of proceeding and may be considered as evidence in any further proceedings involving the alien.

**SEC. ___05. PROCEDURES GOVERNING DETENTION DECISIONS.**

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) by striking ''(c)'' and inserting ''(d)''; and

(iii) in the second sentence by striking ''Attorney General'' and inserting ''Secretary''.

(B) in paragraph (2)—

(i) by striking ''Attorney General'' in subparagraph (A) and inserting ''Secretary'';

(ii) by striking ''or'' at the end of subparagraph (A);

(iii) by striking ''but'' at the end of subparagraph (B); and

(iv) by inserting after subparagraph (B) the following:

''(C) the alien's own recognizance; or

''(D) a secure alternatives program as provided for in section _____09 of this title; but'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (g), respectively;

(3) by inserting after subsection (a) the following new subsection:

''(b) CUSTODY DECISIONS.—

''(1) IN GENERAL.—In the case of a decision under subsection (a) or (c), the following shall apply:

''(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

''(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible or reasonable fear of persecution in order to proceed in immigration court, within 72 hours of a positive credible or reasonable fear determination.

''(C) An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (c) request a redetermination of that decision by an Immigration Judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an Immigration Judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

''(2) CRITERIA TO BE CONSIDERED.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

''(A) whether the alien poses a risk to public safety or national security;

''(B) whether the alien is likely to appear for immigration proceedings; and

''(C) any other relevant factors.

''(3) APPLICATION OF SUBSECTIONS (a) AND (b).—This subsection and subsection (a) shall apply to all aliens in the custody of the Department of Homeland Security, except those who are subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who have a final order of removal and have no proceedings pending before the Executive Office for Immigration Review.'';

(4) in subsection (c), as redesignated—

(A) by striking ''Attorney General'' and insert ''Secretary''; and

(B) by striking ''or parole'' and inserting '', parole, or decision to release;'';

(5) in subsection (d), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary'' each place it appears; and

(B) in paragraph (2), by inserting ''or for humanitarian reasons,'' after ''such an investigation,'';

(6) in subsection (e), as redesignated, by striking ''Attorney General'' and inserting ''Secretary'';

(7) by inserting after subparagraph (e), as redesignated, the following new subparagraph:

''(f) ADMINISTRATIVE REVIEW.—If an Immigration Judge's custody decision has been stayed by the action of the Department of Homeland Security, the stay shall expire in

30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.''; and

(8) in subsection (g), as redesignated, by striking ''Attorney General'' and inserting ''Secretary'' each place it appears..

**SEC. ___06. LEGAL ORIENTATION PROGRAM.**

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered by the Department of Justice Executive Office for Immigration Review.

(b) CONTENT OF PROGRAM.—The legal orientation program developed pursuant to this subsection shall be implemented by the Executive Office for Immigration Review and shall be based on the Legal Orientation Program in existence on the date of the enactment of this Act.

(c) EXPANSION OF LEGAL ASSISTANCE.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear interview. The pro bono counseling and legal assistance programs developed pursuant to this subsection shall be based on the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

**SEC. ___07. CONDITIONS OF DETENTION.**

(a) IN GENERAL.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) PROCEDURES AND STANDARDS.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as verbal or physical abuse or harassment, sexual abuse or harassment, or arbitrary punishment.

(2) LIMITATIONS ON SHACKLING.—Procedures limiting the use of shackling, handcuffing, solitary confinement, and strip searches of detainees to situations where it is necessitated by security interests or other extraordinary circumstances.

(3) INVESTIGATION OF GRIEVANCES.—Procedures for the prompt and effective investigation of grievances raised by detainees, including review of grievances by officials of the Department who do not work at the same detention facility where the detainee filing the grievance is detained.

(4) ACCESS TO TELEPHONES.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) LOCATION OF FACILITIES.—Location of detention facilities, to the extent practicable, near sources of free or low cost legal representation with expertise in asylum or immigration law.

(6) PROCEDURES GOVERNING TRANSFERS OF DETAINEES.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) QUALITY OF MEDICAL CARE.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the special characteristics of noncriminal, nonviolent detainees, and ensure that procedures and conditions of detention are appropriate for a noncriminal population; and

(2) ensure that noncriminal detainees are separated from inmates with criminal convictions, pretrial inmates facing criminal prosecution, and those inmates exhibiting violent behavior while in detention.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where they work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

**SEC. ___08. OFFICE OF DETENTION OVERSIGHT.**

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this title referred to as the ''Office'').

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and report to, the Secretary.

(3) EFFECTIVE DATE.—The Office shall be established and the head of the Office appointed not later than 6 months after the date of the enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department of Homeland Security;

(iii) the Civil Rights Office of the Department of Homeland Security; or

(iv) any other relevant office of agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Office shall annually submit a report on its findings on detention conditions and the results of its investigations to the Secretary, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives.

(B) CONTENTS OF REPORT.—

(i) ACTIONS TAKEN.—The report described in subparagraph (A) shall also describe the actions to remedy findings of noncompliance or other problems that are taken by the Secretary, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, and each detention facility found to be in noncompliance.

(ii) RESULTS OF ACTIONS.—The report shall also include information regarding whether the actions taken were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department of Homeland Security;

(2) the Civil Rights Office of the Department of Homeland Security;

(3) the Privacy Officer of the Department of Homeland Security;

(4) the Civil Rights Section of the Department of Justice; and

(5) any other relevant office or agency.

**SEC. ___09. SECURE ALTERNATIVES PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program. For purposes of this subsection, the secure alternatives program means a program under which aliens may be released under enhanced supervision to prevent them from absconding, and to ensure that they make required appearances.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing

pilot programs such as the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

(2) UTILIZATION OF ALTERNATIVES.—The program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(d)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) CONTRACTS.—The Department shall enter into contracts with qualified nongovernmental entities to implement the secure alternatives program. In designing the program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

**SEC. ___10. LESS RESTRICTIVE DETENTION FACILITIES.**

(a) CONSTRUCTION.—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) CRITERIA.—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department of Homeland Security detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to meaningful programmatic and recreational activities;

(E) detainees are permitted contact visits with legal representatives, family members, and others;

(F) detainees have access to private toilet and shower facilities;

(G) prison-style uniforms or jumpsuits are not required; and

(H) special facilities are provided to families with children.

(c) FACILITIES FOR FAMILIES WITH CHILDREN.—For situations where release or secure alternatives programs are not an option, the Secretary shall ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for parents and minor children are not physically separated.

(d) PLACEMENT IN NONPUNITIVE FACILITIES.—Priority for placement in less restrictive facilities shall be given to asylum seekers, families with minor children, vulnerable populations, and nonviolent criminal detainees.

(e) PROCEDURES AND STANDARDS.—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

**SEC. ___11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this title.

**SEC. ___12. EFFECTIVE DATE.**

Except as otherwise provided, this title shall take effect 6 months after the date of the enactment of this Act.

---

**SA 4061.** Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. ESTABLISHMENT OF THE OFFICE OF IMMIGRATION POLICY.**

(a) IN GENERAL.—Subtitle F of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding at the end the following:

**"SEC. 479. OFFICE OF IMMIGRATION POLICY.**

''(a) ESTABLISHMENT.—There is established within the Department the Office of Immigration Policy (referred to in this section as the 'Office').

''(b) PURPOSE.—The Office shall coordinate all Department policies and programs relating to immigration and border security.

''(c) DIRECTOR.—

''(1) APPOINTMENT.—The Office shall be headed by a Director, who shall—

''(A) be appointed by the Secretary; and

''(B) report to the Assistant Secretary for Policy.

''(2) RESPONSIBILITIES.—The Director shall—

''(A) advise the Secretary and the Assistant Secretary for Policy regarding all aspects of Department programs relating to immigration and border security;

''(B) develop Department-wide policies regarding immigration and border security;

''(C) coordinate the immigration and border security policies and programs of the Department with other executive agencies; and

''(D) coordinate all policies and programs of the Department relating to immigration and border security among United States Immigration and Customs Enforcement, United States Customs and Border Protection, United States Citizenship and Immigration Services, and other agencies of the Department.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 478 the following:

''Sec. 479. Office of Immigration Policy.''.

---

**SA 4062.** Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.**

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

---

**SA 4063.** Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PEACE GARDEN PASS.**

(a) AUTHORIZATION.—Notwithstanding section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), the Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the ''Peace Garden Pass'') to allow citizens and nationals of the United States to travel to the International Peace Garden.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued to, and shall authorize the admittance of, any person who enters the International Peace Garden from the United States and exits the International Peace Garden into the United States without having been granted entry into Canada.

(c) IDENTIFICATION.—The Secretary of State, in consultation with the Secretary, shall—

(1) determine what form of identification (other than a passport, passport card, or similar alternative to a passport) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(d) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(e) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(f) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

---

**SA 4064.** Mr. INHOFE (for himself, Mr. BYRD, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. COBURN, Mr. ENZI, Mr. SESSIONS, and Mr. GRAHAM) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 295, line 22, strike ''the alien—'' and all that follows through page 296, line 5, and insert ''the alien meets the requirements of section 312.''.

On page 352, line 3, strike ''either—'' and all that follows through line 15, and insert ''meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).''.

On page 614, after line 5, insert the following:

**SEC. 766. ENGLISH AS NATIONAL LANGUAGE**

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

**''CHAPTER 6—LANGUAGE OF THE GOVERNMENT**

''Sec.
''161. Declaration of national language
''162. Preserving and enhancing the role of the national language

**''§ 161. Declaration of official language**

''English is the national language of the United States

**§ 162. Preserving and enhancing the role of the national language**

''The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.'' .

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following:

''6. Language of the Government ..... 161''.

**SEC. 767. REQUIREMENTS FOR NATURALIZATION.**

(a) FINDINGS.—The Senate makes the following findings:

(1). Under United States law (8 U.S.C. 1423 (a)), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, demonstrate an understanding of the English language, United States history and Government, to become citizens of the United States.

(2). The Department of Homeland Security is currently conducting a review of the testing process used to ensure prospective United States citizens demonstrate said knowledge of the English language and United States history and government for the purpose of redesigning said test.

(b) DEFINITIONS.—For purposes of this section only, the following words are defined:

(1) KEY DOCUMENT.—The term ''key documents'' means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(2) KEY EVENTS,— The term ''key events'' means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(3) KEY IDEAS.—The term ''key ideas'' means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(4) KEY PERSONS.—The term ''key persons'' means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(c) GOALS FOR CITIZENSHIP TEST REDESIGN.—The Department of Homeland Security shall establish as goals of the testing process designed to comply with provisions of [8 U.S.C. 1423 (a)] that prospective citizens:

1. demonstrate a sufficient understanding of the English language for usage in everyday life;

2. demonstrate an understanding of American common values and traditions, including the principles of the Constitution of the United States, the Pledge of Allegiance, respect for the flag of the United States, the National Anthem, and voting in public elections;

3. demonstrate an understanding of the history of the United States, including the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States;

4. demonstrate an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States; and

5. Demonstrate an understanding of the rights and responsibilities of citizenship in the United States.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall implement changes to the testing process designed to ensure compliance with [8 U.S.C. 1423 (a)] not later than January 1, 2008.

---

**SA 4065.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On Page 295, strike lines 14 through 16 and insert the following:

''(B) by the alien, if—

''(i) the alien has maintained such nonimmigrant status in the United States for a cumulative period of not less than 4 years of employment;

''(ii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position, and

''(iii) an employer attests that the employer will employ the alien in the offered job position; or

''(iv) the alien shall submit at least 2 of the following documents for current employment, which shall be considered evidence of such current employment:

''(aa) Records maintained by the Social Security Administration.

''(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

''(cc) Records maintained by Internal Revenue Service.

''(dd) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.''

## NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, May 25, 2006, at 10 a.m. in room SD–366 of the Dirksen Building.

The purpose of the hearing is to receive testimony regarding the outlook for growth of coal fired electric generation and whether sufficient supplies of coal will be available to supply electric generators on a timely basis both in the near term and in the future.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Kellie Donnelly, John Peschke, or Shannon Ewan.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that S. 2788, a bill to direct the exchange of certain land in Grand, San Juan and Uintah Counties, Utah, and for other purposes has been added to the agenda of the hearing scheduled before the Subcommittee on Public Lands and Forests scheduled for Wednesday, May 24, at 2:30 p.m. in room SD–366. This will replace S. 1135 which has been removed from the agenda.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics, Dick Bouts, or Sara Zecher.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a full committee hearing during the session of the Senate on Wednesday, May 17, 2006 at 10;30 a.m. in SR–328A, Russell Senate Office Building. The purpose of this hearing will be to review the United States Department of Agriculture Rural Utilities Service Broadband Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the

Senate on May 17, 2006, at 4 p.m., in open session to receive testimony on the roles and missions of the National Guard in support of the Bureau of Customs and Border Protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 17, 2006, at 4;30 p.m., in close session to receive a briefing from the Joint Improvised Explosive Device Defeat Organization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SESSIONS. Mr. President, I would like to ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on Wednesday, May 17, 2006, at 9:30 a.m. to consider the following pending nominations: Dale Klein to be a Commissioner of the Nuclear Regulatory Commission and Molly O'Neill to be an Assistant Administrator, Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, May 17, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony at a hearing entitled, ''Physician-Owned Specialty Hospitals: Profits before Patients?''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 17, 2006, at 9:30 a.m. to hold a hearing on Iran's Political/Nuclear Ambitions and U.S. Policy Options.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 17, 2006, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions meet in executive session during the session of the Senate on Wednesday, May 17, 2006, at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, May 17, 2006, at 10 a.m. to consider the nomination of Robert J. Portman to be Director of the Office of Management and Budget.

The PRESIDING OFFICER. without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 17, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Suicide Prevention Programs and their Application in Indian Country.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on ''Understanding the Benefits and Costs of Section 5 Pre-Clearance'' on Wednesday, May 17, 2006, at 9 a.m. in Room 226 of the Dirksen Senate Office Building.

*Witness List*

Panel I: Fred Grey, Senior Partners, Gray, Langford, Sapp, McGowan, Gray and Nathanson, Montgomery, Alabama; Drew S. Days III, Alfred M. Rankin, Professor of Law, Yale Law School, New Haven, Connecticut; Abigail M. Thernstrom, Senior Fellow, Manhattan Institute, New York, New York; Armand Derfner, Attorney, Derfner, Altman and Wilborn, Charleston, South Carolina; Nate Persily, Professor Law, University of Pennsylvania Law School, Philadelphia, Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 17, 2006, at 2:30 p.m. to hold a closed Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Wednesday, May 17, 2006, at 2:30 p.m. for a hearing entitled, Progress or More Problems: Assessing the Federal Government's Security Clearance Process.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the NATO Parliamentary Assembly, during the 109th Congress: the Honorable PATRICK LEAHY of Vermont and the Honorable RON WYDEN of Oregon.

The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly, during the 109th Congress: the Honorable CHARLES GRASSLEY of Iowa, the Honorable WAYNE ALLARD of Colorado, the Honorable JEFF SESSIONS of Alabama, the Honorable GEORGE VOINOVICH of Ohio, and the Honorable NORM COLEMAN of Minnesota.

## MEASURE PLACED ON THE CALENDAR—S. 2810

Mr. MCCONNELL. Mr. President, I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2810) to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling programs and area agencies on aging, and for other purposes.

Mr. MCCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

## ORDERS FOR THURSDAY, MAY 18, 2006

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow, Thursday, May 18. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2611, the Comprehensive Immigration Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. MCCONNELL. Today we continued to make considerable progress on the immigration bill. We will be starting early tomorrow. We have Senator KENNEDY's and Senator INHOFE's amendments lined up, next up in the queue. Members can expect early votes

on those two amendments. The managers have outlined an order for the next several amendments. We hope to get short time agreements on each of these and have votes throughout the day. We also expect there likely to be votes into the evening tomorrow. We have a lot of amendments to process for this bill, in fairness to Members on both sides of the aisle who feel strongly about this measure and want to process a very significant number of amendments. With the cooperation of Members on both sides of the aisle, we should be able to accomplish that. Tomorrow will be, as I said earlier, a busy day and potentially a busy evening as well.

## ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in adjournment under the previous order.

There being no objection, the Senate, at 7 p.m, adjourned until Thursday, May 18, 2006, at 9 a.m.